

Comments by The Legal Aid Society on  
the New York City Housing Authority's  
Section 8 Voluntary Transition Program

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**Interest and Expertise of the Legal Aid Society**

The Legal Aid Society is one of the oldest and largest providers of legal assistance to the poor in the United States. The Society's Civil Practice operates 14 neighborhood offices and city-wide units serving residents of all five boroughs of New York City providing comprehensive legal assistance in housing, public assistance, and other civil areas of primary concern to the poor. The Society is counsel on numerous class-action cases concerning the rights of public housing residents and is counsel to the New York City Public Housing Resident Alliance. We work closely with the Community Service Society on public housing issues. The New York City Public Housing Resident Alliance seeks to inform and network with residents, so that they can have a strong and effective voice and secure greater accountability in local, state and federal policy decisions that affect public housing in New York City.

**Diversion of Section 8 Vouchers**

NYCHA proposes to use 8,400 Section 8 vouchers over the next three years in its city/state developments (containing 21,000 units) to help meet the \$80 million annual operating deficit they incur due to the lack of ongoing city/state operational support. While NYCHA claims this is a necessary fiscal measure, it means that 8,400 fewer vouchers will be available to the 135,000 families now on the Section 8 waiting list. This represents a loss of limited Section 8 voucher funds originally intended to assist low-income families seeking housing in the open rental market. Instead, the 8,400 vouchers will be used to support occupied public housing units.

The program could well result in diverting even more than the 8,400 Section 8 vouchers proposed, depending on how many voucher holders use the "portability" option to move out of NYCHA housing. If, for instance, a household in a city/state unit takes its voucher to a private rental, NYCHA says it plans to extend an additional voucher to the next tenant of the vacated city/state unit. If so, the program will result in the use of two or more vouchers to support the originally vouchered unit. (In a separate proposal, NYCHA plans to apply to HUD for designation as a Moving-to-Work jurisdiction in order to use an additional \$150 million in Section 8 voucher funds for general operational support for its public housing.)

We oppose the use of Section 8 vouchers in public housing. The diversion of critical Section 8 resources will be a loss for hundreds of thousands of families on the Section 8 waiting list.

#### Protection of Vouchered Households with Fluctuating Incomes

Some vouchered households experience rising incomes that exceed Section 8 eligibility limits. Normally, these households lose their Section 8 vouchers after a grace period of 6 months, after which there is no assurance they will receive another voucher if their income falls back within the eligible range. Once they lose their voucher, they are responsible for the full rent. In contrast, public housing tenants have continuing affordability protections under the Brooke amendment, limiting rent to 30-percent of household income regardless of changing income levels.

The NYCHA materials do not provide assurances in the event of such income fluctuations: "If their income subsequently declines they may be restored to the Section 8 Program." In response to CSS questions about this concern, NYCHA responded: "That option

[to recover the voucher] will be available to the family continuing to reside in a City/State apartment for as long as the tenancy continues. Where the family uses Section 8 assistance to obtain a unit on the private market, they will be accorded the one year reinstatement period that is allowed to other Section 8 participants."

We recommend that NYCHA explicitly incorporate the above assurances in its final program submission.

#### Increased Delays for Families on the Public Housing Waiting List

The NYCHA Section 8 Transition Program changes the priorities and procedures under which units are offered to public housing waiting list families. Residents in city/state developments are given priority transfers to federal developments, thereby filling units that would normally be accessible to the at-large waiting list. Waiting list families interested in the City/State developments would be required to accept Section 8 vouchers—if they rejected the option, there might be delays in offering them alternative public housing choices. The program will produce increased friction in the placement process that will inevitably slow it down.

#### Lack of Clarity about Portability Options and Procedures

Some residents of City/State developments may opt for the voucher, on the assumption that it will provide an opportunity to move out of NYCHA housing to a private rental located in the city or in another jurisdiction. Our observation is that tenants (and many of their advocates) are not well-informed about obstacles to portability within the city, or about the procedural complications of working out portable voucher arrangements, particularly in another jurisdiction. (For instance, does one have to apply/wait for a transfer? If a household is income-eligible in NYC, does it mean they will be eligible in other jurisdictions?) The lack of clear information

about how portability works may create unreal expectations among families who are considering the voucher option, with negative consequences that they can not predict at the start.

We recommend that NYCHA provide residents with clear, accurate, readable materials describing portability options and procedures so that residents can make informed choices. We also recommend that NYCHA give City/State residents who opt for the voucher a grace period of one year during which they are free to relinquish the voucher and resume their standing as public housing tenants.

#### Tenants Need to Make Informed Choices about Their Options

The NYCHA Section 8 Transition Program—including its plans for each City/State development—was launched just days before NYCHA started to hold its first resident briefings on September 13th, 2006. Elected officials were not briefed until September 21st, for some officials after the briefings were conducted in their districts. There are many open questions about the Program that were not fully or satisfactorily answered, for tenants, their advocates, and their elected representatives. At some resident briefings, NYCHA responses were observed to be inconsistent or incomplete. In short, there has not been enough time to develop sound, independent information for affected residents, on the basis of which they can make informed choices about their options.

We recommend that NYCHA not submit or implement the Transition Program proposal until affected residents are in a better position to make informed choices about their options. NYCHA should see that residents are provided with clear, accurate, readable materials describing their options and the likely consequences. We strongly recommend that NYCHA give

City/State residents who opt for the voucher a grace period of one year during which they are free to relinquish the voucher and resume their standing as public housing tenants.

Review and Public Hearing Prior to NYCHA Submission of Proposal to HUD

These comments, and those of other individuals and organizations, may result in revisions to the NYCHA Section 8 Voluntary Transition proposal. In addition, some clarifications in the materials NYCHA has already distributed may be advisable. There should be an opportunity for affected residents and the concerned public to review the final proposal, and to offer public comment at an open hearing, prior to HUD submission.

We recommend that NYCHA prepare and distribute its final proposal to HUD for public review, and that it hold a public hearing to obtain open comments on the proposal.

Respectfully submitted,

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