

**SAFE & DECENT? EXAMINING THE
CURRENT STATE OF RESIDENTS'
HEALTH AND SAFETY IN HUD HOUSING**

HEARING
BEFORE THE
SUBCOMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
AND INSURANCE
OF THE
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U.S. HOUSE OF REPRESENTATIVES
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SAFE & DECENT? EXAMINING THE CURRENT STATE OF RESIDENTS' HEALTH AND SAFETY IN HUD HOUSING

Wednesday, November 20, 2019

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
AND INSURANCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:02 p.m., in room 2128, Rayburn House Office Building, Hon. Wm. Lacy Clay [chairman of the subcommittee] presiding.

Members present: Representatives Clay, Velazquez, Cleaver, Beatty, Green, Vargas, Lawson, Tlaib, Axne; Stivers, Luetkemeyer, Huizenga, Tipton, Zeldin, Kustoff, Gonzalez of Ohio, Rose, Steil, and Gooden.

Ex officio present: Representative Waters.

Also present: Representative Pressley.

Chairman CLAY. The Subcommittee on Housing, Community Development, and Insurance will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Also, without objection, members of the full Financial Services Committee who are not members of this subcommittee are authorized to participate in today's hearing.

Today's hearing is entitled, "Safe & Decent? Examining the Current State of Residents' Health and Safety in HUD Housing."

I now recognize myself for 4 minutes to give an opening statement.

For decades, the Department of Housing and Urban Development (HUD) has ensured that millions of Americans have a safe, decent, and affordable place to call home. However, today, many residents face ongoing issues with the physical conditions of their homes due to chronic underfunding, insufficient HUD oversight and enforcement, and lack of compliance with HUD requirements by some landlords participating in HUD programs.

While the majority of public and assisted housing is safe for its residents, increasingly, these properties are aging and require capital investments and improvements to ensure that residents live in safe environments. Today's hearing will examine what HUD has done, review some of the current problems, and most importantly, look at ways we can come together to help HUD better serve communities, like the one that I represent, Wellston, Missouri, in St.

Louis County; or Cordoba Courts in Opa-Locka, Florida; and the over 100 public housing developments in New York City.

I was encouraged to read the testimony of St. Louis' own Susan Rollins, who spoke about the importance of housing on health outcomes from the perspective of someone working in the trenches every day to provide low-income families with safe and decent housing.

However, Ms. Rollins' job gets harder by the year as Congress continues to underfund the public housing program. As a result, more families are now being forced to live in conditions that no one should have to face. In fact, last year, funding for public housing repairs had fallen 35 percent since the year 2000, and more than 10,000 public housing homes are lost each year due to disrepair. Increasingly, public housing authorities are being pushed by HUD to get rid of their public housing stock altogether, leaving some communities without a critical resource to address their most pressing housing needs.

I am looking forward to hearing more from Ms. Rollins and the rest of the panel as far as your efforts to ensure that families in Wellston and throughout my district are taken care of as a county, and how HUD will determine what to do with public housing properties that require almost \$14.5 million in repairs.

I also look forward to hearing testimony from our witnesses, who include not only policy experts and government officials, but also HUD tenants, who have seen and unfortunately had to live in deplorable living conditions. And I am hopeful that we will learn from this conversation the ways in which we can ensure that tenants receiving assistance from HUD do not have to live in homes that harm their health and make them sick.

I now recognize the ranking member of the subcommittee, Mr. Stivers, for his opening statement.

Mr. STIVERS. Thank you, Chairman Clay. I want to thank you for scheduling this hearing today. I think it is a really important issue that needs examination. Today's hearing will focus on the quality of HUD's housing stock, ranging from properties operated by our public housing authorities, to units rented through portable housing choice vouchers.

Ensuring Americans occupy homes that are decent, safe, sanitary, and in good repair is not only a bipartisan goal shared by members of this committee and the entire Congress, it is the law, and it has been the law for decades.

This hearing today, I think, is important to demonstrate the serious shortcomings in the quality of HUD housing, often accompanied by failures of management and always resulting in worse outcomes for residents' health, education, and job prospects. In response, I expect some of my colleagues may focus their attention on the unmet capital improvements that are out there, and I think that is important.

I am the co-Chair of the Public Housing Caucus, and I am not blind to the capital backlog, and I acknowledge that it absolutely deserves examination, but it is probably an oversimplification to argue that it is the only issue here. I think there are a lot of issues. We need to look at the bigger picture.

For example, in communities across this country, the supply of housing and rental units is not keeping up with demand. In Franklin County, which I represent in Ohio, that shortage is 50,000 units. As a result, many families are spending more of their income on housing, and many relying on housing vouchers may be priced entirely out by this competition or forced to live in the kinds of poorly-maintained properties that we are going to discuss today, and that is wrong.

We know that some potential solutions exist, and I want to listen to any solutions that you may have. But increasing the overall supply and enhancing the Low-Income Housing Tax Credit (LIHTC) is an important option that we absolutely need to look at.

Encouraging inclusive zoning and building codes is also important.

I think we need to look at what we should not do, and that is things like harmful rent control policies that could actually cause more harm than good.

I think we also need to give our public housing authorities greater flexibility to meet the unique needs of their communities and tenants and encourage creative solutions to the problems they face in their local communities.

Our witnesses today will make it clear that the physical characteristics of the housing stock they live in matters. But we should be mindful that federally-assisted housing programs should be about more than just putting a roof over somebody's head. It should be about improving outcomes for the residents. That is what I think we need to continue to examine. So, I look forward to hearing from these witnesses.

We want to look for solutions. We are for bipartisan solutions. We share the same goal, Mr. Chairman, and I really appreciate you holding this hearing because HUD is an important tool of our Federal Government. I think we need to make sure that HUD is using its resources to help individuals not just get a roof over their head, but climb out of poverty and go on to live their own successful life. And that's what I think we need to work together on, in addition to helping, again, the unmet capital need.

Mr. Chairman, I yield back the balance of my time.

Chairman CLAY. I thank the ranking member for his thoughtful opening remarks, and I look forward to working with this entire subcommittee to come up with solutions on how we provide decent, safe, affordable housing to all Americans who are in public housing.

Mr. STIVERS. Thanks.

Chairman CLAY. Thank you.

Today, we welcome the testimony of Deborah Thrope, deputy director, National Housing Law Project; Geraldine Collins, board president, National Alliance of HUD Tenants; Shalonda Rivers, president and resident, 22nd Avenue Apartment Tenants Association; Orlando Cabrera, partner, Arnall Golden Gregory; Susan Rolins, executive director, Housing Authority of St. Louis County; and Margaret Salazar, executive director, Oregon Housing and Community Services Department.

Witnesses are reminded that your oral testimony will be limited to 5 minutes. And without objection, your written statements will be made a part of the record.

Ms. Rollins, you are recognized for 5 minutes to give your oral presentation.

**STATEMENT OF SUSAN ROLLINS, EXECUTIVE DIRECTOR,
HOUSING AUTHORITY OF ST. LOUIS COUNTY**

Ms. ROLLINS. Chairman Clay, Ranking Member Stivers, Chairwoman Waters, and Ranking Member McHenry, thank you for this opportunity.

The cost of being poor in America is taxing. Often, low-income individuals are shuffled into unsafe neighborhoods with high crime rates, with dilapidated and vacant buildings, and neighborhoods that may be havens for drugs, violence, and crimes. Schools in these neighborhoods struggle with overcrowding, behavioral issues, and accreditation. Many people who live in these neighborhoods suffer from high rates of diabetes, high blood pressure, and other life-threatening diseases. It costs a lot to be poor in America.

In the past, public housing has been considered a safety net to help people who are at risk of becoming homeless. Public housing was originally developed in 1937 to house low-income families. But during the 1980s and 1990s, public housing development began to decline, and has since ceased.

The decrease in capital funding has led to unaffordability and systemic disrepair. In turn, many housing authorities have begun to demolish and dispose of their public housing stock. Unfortunately, the Housing Authority of St. Louis County (HASLC) is no stranger to this.

Housing authorities apply for demolition disposition applications and the units are demolished because they are inadequate and obsolete. Tenants receive a tenant protection voucher, and many are happy to leave. They move to different neighborhoods, and put their children in better school districts.

Lately, the Wellston Public Housing Authority has garnered much attention. It has been recommended that the housing stock be demolished and residents be given tenant protection vouchers. Wellston is one of 92 municipalities in St. Louis County. It has 201 units, representing approximately 500 individuals, which would require almost \$14.5 million to repair. Most of the residents in these units are negatively impacted by the physical conditions and the surrounding environment.

During a 2016 report, a former resident discussed her living conditions with researchers, and she cited holes in the walls from rodents and severe pest infestation. Her children subsequently acquired asthma and breathing problems, and were restricted from playing outside due to the constant gunfire and violence.

Like many housing authorities, Wellston is situated in a food desert. In 2016, Washington University researchers found that high-poverty areas are more likely to have fast food restaurants, convenience stores, and liquor stores, but few supermarkets and banks.

Transportation is another issue. Approximately 20 miles from downtown St. Louis, there was a public housing development called

Valley Park. Valley Park had become an oasis because of highways that were built around it. An 18-year-old resident walked down the median of a four-lane highway to her Burger King job because there were no bus stops near her, and the express buses did not run at the same time that she needed them. She was terrified of the large trucks that went by her on the highway, but she was determined to do what was best for her family and for herself.

Unfortunately, local housing authorities were not brought to the table to discuss transportation, to discuss the lack of bus stops, or to discuss anything that had to do with getting people from one place to another, so we leave out an entire portion of our community when we are talking about how transportation should be run.

Inadequate housing conditions are also found in the Housing Choice Voucher Program. In 2018, TEH, a company, purchased approximately 2,400 units in the St. Louis area and received over \$1 million in subsidy payments. In late 2018, the Authority inspections noticed a decrease in maintenance. In early 2019, the Authority terminated its landlord agreement for any new vouchers. With a grant from the county, all TEH voucher holders were relocated at no cost to them.

Since 2017, HASLC and the St. Louis City Housing Authority have collaborated to offer a mobility program to housing choice voucher tenants. The goal of the program is to help de-concentrate poverty and provide tenants with access to better neighborhoods. It has also shown that the mobility program has a positive effect on health, as well.

So, what do we need? Obviously, more money would be extremely helpful. But as I think Ranking Member Stivers mentioned, we have to be more creative, as well.

There need to be dedicated community liaisons, joining housing authorities to various governmental departments for a holistic approach to problem solving.

HUD needs to be given more autonomy to force multi-jurisdiction vouchers.

We need to continue to have demonstration programs, like the Uniform Physical Conditions Standards for vouchers that is looking at standardized HQS inspections at a higher level than what is currently in place. In this area, HUD should have autonomy over what might pass as acceptable by local governments.

And finally, HUD offices must be staffed with personnel who are proactive and willing to know the faces of the people that we serve and to work with us hand in hand to make sure that we do the best job that we can.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Rollins can be found on page 77 of the appendix.]

Chairman CLAY. Thank you, Ms. Rollins, for your testimony.

Ms. Salazar, you are recognized for 5 minutes.

**STATEMENT OF MARGARET SALAZAR, EXECUTIVE DIRECTOR,
OREGON HOUSING AND COMMUNITY SERVICES DEPART-
MENT, AND SECRETARY/TREASURER, NATIONAL COUNCIL
OF STATE HOUSING AGENCIES**

Ms. SALAZAR. Good afternoon. Chairman Clay, Ranking Member Stivers, and members of the subcommittee, thank you for this opportunity to testify on behalf of Oregon Housing and Community Services (OHCS) and the National Council of State Housing Agencies (NCSHA) on our shared priority to ensure that federally-assisted housing is safe, decent, and affordable for the tenants who rely on it.

My name is Margaret Salazar, and I am the executive director of Oregon Housing and Community Services. That is Oregon's State housing finance agency. I also have the privilege of serving as the secretary/treasurer of NCSHA, a non-profit, non-partisan organization created by the nation's State housing finance agencies (HFAs) to coordinate and leverage our Federal advocacy efforts for affordable housing.

State HFAs, such as OHCS, are mission-based, publically-accountable entities created under State law to promote and advance affordable housing in our States and communities. HFAs have our fingers on the pulse of the properties in our multi-family portfolios, including those with HUD financing, through the stewardship compliance monitoring and asset management functions that we perform.

Thirty-three HFAs, including OHCS, are also Section 8 performance-based contract administrators, known as PBCAs, for HUD's Project-Based Rental Assistance portfolio, known as PBRA. We provide direct oversight and monitoring of the regulatory compliance and physical condition of Project-Based Section 8 properties.

As of October 2019, PBCAs administered more than 88 percent of all those HUD PBRA contracts. HUD and Congress have time and again recognized that PBCAs are key to HUD's efforts to effectively and efficiently oversee and monitor HUD-assisted properties by reducing improper payments, protecting tenants, and ensuring that properties are well-maintained.

At the outset, it is important to state that most PBRA properties are in good physical condition and provide tenants with safe, healthy, and affordable homes. Less than 5 percent of the more than 31,000 PBRA properties are ranked as high-risk or troubled. But notwithstanding that, PBCAs are an important touch point for tenants, responding to their concerns in a timely manner, and acting as an early warning system for HUD monitoring and enforcement.

PBCAs also take proactive approaches to reduce noncompliance with program rules and to leverage our affordable housing resources that we put out as State agencies to improve and preserve the properties in our portfolios.

Despite these successes, PBCAs and our portfolios have been impacted by years of program uncertainty as a result of bid protests, funding constraints, inconsistent Federal oversight, and HUD's long and complicated process for developing a procurement framework for PBCAs.

For example, since 2011, HUD prohibited PBCAs in 42 States from conducting annual management and occupancy reviews (MORs), which are a critical tool for property oversight, while bid protests took place. HUD finally reinstated MORs in 2016. Since then, however, HUD budgetary constraints have limited PBCA reviews to only 43 percent of the potential reviews each year.

The PBCA program now faces a critical juncture as HUD prepares to release a new procurement solicitation that will determine what entities are eligible to serve as PBCAs, where they can serve, and the scope of their work.

We hope that HUD is considering the constructive feedback that it received after its first attempt at procurement to avoid repeating the shortcomings of that attempt. The previously proposed plan failed to comply with statutory requirements that HUD contracts with public housing agencies for this important work.

HUD also sought to split the work done by PBCAs between regional and national contractors, moving away from a successful, comprehensive State-based approach. That plan would have added undue risk to the Federal Government, negatively impacted the health and safety of the 1.2 million tenants who today rely on PBRA assistance, and endangered preservation efforts throughout the country.

We urge Congress to protect and improve the PBRA portfolio for those tenants and for future generations by ensuring that HUD's new solicitation for PBCA contracts does not make the same mistakes. This is why we urge the subcommittee to support the discussion draft's clarification that HUD must contract with public housing agencies for this work, and contract with partners that have experience addressing tenant concerns and preserving affordable housing.

We want to acknowledge that there are some differences in opinion in the discussion draft and how it approaches this concern. We believe that there is considerable common ground here, and there is consensus available to emphasize the importance of having mission-driven organizations do this PBCA work across the country.

Thank you for the opportunity to testify.

[The prepared statement of Ms. Salazar can be found on page 83 of the appendix.]

Chairman CLAY. Thank you, Ms. Salazar.

I now recognize Ms. Thrope for 5 minutes.

STATEMENT OF DEBORAH THROPE, DEPUTY DIRECTOR, THE NATIONAL HOUSING LAW PROJECT

Ms. THROPE. Good afternoon, Chairman Clay, Ranking Member Stivers, and distinguished members of the subcommittee.

Thank you for the opportunity to testify today on the current state of residents' health and safety in federally-assisted housing. I am here on behalf of the National Housing Law Project, a non-profit organization that provides legal and technical assistance to housing advocates, tenant leaders, and public officials nationwide on the housing issues confronting poor Americans.

Our nation faces an affordable housing crisis. Over 11 million families pay upwards of 50 percent of their income on rent. HUD housing programs provide an essential source of housing for se-

verely cost-burdened families. In fact, in many communities, HUD housing is the only source of affordable housing for seniors, people with disabilities, and families with children. HUD and Congress must do more to protect the health and safety of these residents.

This afternoon, I will briefly discuss the current state of HUD housing and how we got here, and then I will highlight five key recommendations for Congress to improve the quality of life for HUD residents.

First, to be clear, as Ms. Salazar stated in her testimony, a vast majority of HUD-assisted housing is, in fact, in good condition. According to HUD, 97 percent of HUD multi-family properties, and 92 percent of public housing properties, have physical inspection scores of 60 or higher, which is a passing score.

However, inspection scores do not tell the whole story. The fact is that many HUD tenants are still exposed to mold, lead-based paint, poor air quality, and other health and safety hazards. One reason for this is that HUD's physical inspection protocol, REAC, does not accurately reflect property conditions. REAC inspection standards are dated and have not been modernized to test for common environmental toxins.

While we are optimistic that HUD is advising REAC in its new NSPIRE demonstration, HUD has given us no reason to believe it will address some of our key concerns, notably that residents have been and continue to be denied a role in the inspections process. These concerns were highlighted yesterday in a letter from Chairwoman Waters to HUD Secretary Ben Carson.

Another reason we see substandard conditions in HUD housing is because, even when HUD does identify deficiency, it rarely holds housing authorities or Project-Based owners responsible. In most cases, HUD has the tools to enforce physical conditions, but often fails to use them.

Finally, in the case of public housing, decades of underfunding by Congress has led to a huge capital need, and a maintenance repair backlog close to \$50 billion and growing. Rather than managing and rehabilitating its properties, HUD has often failed to address deficiencies and instead focused on demolition. The loss of HUD properties is contributing to our nation's affordable housing crisis.

I will now offer five key strategies to address the health and safety of HUD residents.

First, Congress must increase funding for the public housing program to address maintenance and repair needs of all existing units. This will help slow the estimated loss of 10,000 public housing units we see each year. While the Rental Assistance Demonstration, or RAD, has provided a path to preserve and rehabilitate a large portion of the public housing stock, RAD is not a viable solution for many housing authorities, especially smaller ones that cannot access the private financing available to meet RAD's bottom line. Bold proposals like Chairwoman Waters' Housing is Infrastructure Act will appropriate sufficient funds to support the development and preservation of public housing.

Second, Congress must strengthen HUD's oversight of failing properties. HUD's obligation to create remediation plans and use penalties to bring properties into compliance has weakened with time. Wellston, Missouri, provides an excellent example of how

stronger HUD oversight could have preserved HUD housing and protected residents from demoralizing living conditions.

I want to highlight one fact that I do not think Ms. Rollins mentioned in her testimony, which is that the Wellston Housing Authority has been in HUD receivership for the past 20 years. During its receivership, HUD completely failed to take steps to rehabilitate the properties. Instead, last year HUD announced the demolition of 200 public housing units, and it does not have to be this way.

The third strategy is to increase your oversight of HUD. We recommend requiring HUD to submit quarterly reports on detailed property-level information with respect to physical conditions. HUD's current reporting obligations are inadequate to assess the health and safety issues at individual properties.

The fourth strategy is to increase resident engagement in the physical inspections process. You will hear from Shalonda Rivers in a couple of minutes about how it took the residents themselves to direct HUD's attention to toxic living conditions in her home despite passing REAC scores.

Last, there are several bills up for discussion today that incorporate these strategies. We strongly urge the committee to support H.R. 3745, the HUD Inspection Oversight Act of 2019, and the tenant empowerment legislative proposal that was brought here by the National Alliance of HUD Tenants.

Thank you for the opportunity to testify today, and I look forward to your questions.

[The prepared statement of Ms. Thrope can be found on page 90 of the appendix.]

Chairman CLAY. Thank you so much, Ms. Thrope.

Ms. Collins, you are recognized for 5 minutes.

STATEMENT OF GERALDINE COLLINS, PRESIDENT, NATIONAL ALLIANCE OF HUD TENANTS (NAHT)

Ms. COLLINS. Hello, and thank you, everyone, for having us here this afternoon. Thank you, Chairman Clay and Ranking Member Stivers, for inviting the National Alliance of HUD Tenants (NAHT) to testify on behalf of the 1.7 million households in privately-owned HUD housing.

We urge Congress to pass the tenant empowerment discussion draft and to enact the HUD Inspection Oversight Act of 2019. Together, these bills will provide tools to empower tenants to ensure our homes are safe.

Most HUD and public housing provides decent, safe, and affordable homes for millions of families, including Phelps House, where I live in Manhattan.

It has long been apparent to NAHT's members that the HUD Real Estate Assessment Center (REAC) systematically under-reports health and safety problems. The disconnect between REAC scores and substandard housing came to a head at several Global Ministries properties in 2015 when tenants at Eureka Gardens in Jacksonville, Florida, exposed deplorable, life-threatening conditions. Most recently, coverage by NBC and ProPublica has concluded that REAC is, "pretty much a failure."

HUD has recently instituted the NSPIRE Demonstration and Response, but given the urgency, HUD response has been too little,

too slow. It took the action of two deaths to happen in South Carolina for HUD to realize that tenants were not protected from carbon monoxide.

Since 1999, HUD was downsized, and that vision was to organize tenants that could serve as unpaid ears and eyes to save and improve our homes. Unfortunately, from the outset, REAC has rejected this vision and prevented its inspectors from engaging with residents when they visit a property. Management staff can accompany inspectors, but not the people who live in the buildings. If REAC visits during the summer, how will they know that the heating system does not work in the winter, unless they talk to the tenants?

The tenant empowerment bill would address this problem by tapping into the experience and expertise of tenants at no cost to taxpayers. Currently, HUD can take action to many owners and have them bring buildings up to code, including partial withholding of Section 8 subsidy buildings.

But too often, powerful owners at buildings like Forest Cove in Atlanta are treated with kid gloves by HUD. I have visited Forest Cove, and you will see some of the slides shown here. Although Millennia has managed there for 2 years, tenants are still exposed to deplorable conditions including rats, water leaks, toxic mold, exposed wiring, and more. No one should have to live like this.

We presented these slides to Millennia and HUD last March, urging emergency relocation of 17 families until their units were made habitable. Although the REAC score is 32, HUD has yet to make Millennia take action, and families continue to suffer.

The tenant empowerment bill would enable tenants to put our rent into escrow, thereby requiring HUD to withhold its portion of the rent to pressure owners to fix these conditions. If HUD will not move against entrenched, powerful owners, Congress should give the tenants the power to make HUD do its job.

The bill would empower tenants of cities to petition HUD or to re-inspect properties when REAC failed to detect hazardous conditions. For example, St. Edmonds in Chicago, shown in these slides, passed the REAC score in 2017 despite widespread water leaks, mold, asbestos, and window leaks.

A maintenance worker was put in intensive care because of mold that he found behind a child's bedroom. When life-threatening conditions like these persist, and the owners and HUD fail to act, the bill would give tenants the right to sue and enforce contracts between HUD and the owner.

The bill would also give tenants access to key information, such as who the building owners are, their repair plans, and reserves overseen by HUD. Tenants can help make sure taxpayers' funds are spent wisely and well. Only slumlords with something to hide would object.

This bill would also require REAC to adopt simple, common-sense steps to involve tenants as partners. Because of our homes, tenants have the most at stake.

I urge you to pass the tenant empowerment bill so that tenants can partner with HUD to stem the disgraceful blights of substandard housing.

Thank you.

[The prepared statement of Ms. Collins can be found on page 42 of the appendix.]

Chairman CLAY. Thank you, Ms. Collins.

Ms. Rivers, you are now recognized for 5 minutes.

STATEMENT OF SHALONDA RIVERS, PRESIDENT, CORDOBA COURTS TENANTS ASSOCIATION, AND BOARD OF DIRECTORS, NATIONAL LOW INCOME HOUSING COALITION

Ms. RIVERS. Good day, everyone. Chairman Clay, Ranking Member Stivers, and members of the subcommittee, thank you for the invitation today.

I am a board member of the National Low Income Housing Coalition and a member of the National Alliance of HUD Tenants. I am a long-time resident at 22nd Avenue Apartments, Cordoba Courts, for 15 years, and I currently serve as the president of the tenants association.

The property is owned by Millennia Housing Management and is subsidized by HUD Project-Based Section 8. The tenants association started in 2013 due to the fact that many residents had similar complaints about deplorable conditions and poor management, and realizing many of these deplorable conditions residents faced were not right.

We lived in homes with rats, termites, peeling paint, major water leaks, toxic mold, improper security, and plumbing issues that had resulted in raw sewage backing up into our apartments. Some of these issues are documented in the photos that we submitted to the committee today.

Deplorable conditions still remain today in spite of many written communications directly to HUD for many years about unsafe and unsanitary conditions.

As the president of the tenants association, I reached out to HUD in 2015 about the health and safety concerns. HUD was not happy about me contacting them on the behalf of other residents in the community. Many residents in my community were forced to pay out-of-pocket for mold tests due to HUD response saying no, they cannot send a mold company to do testing. All results showed positive and unsafe levels of mold.

In September of 2018, management moved several residents and families, including me and my 4 children, out of these toxic, poisonous apartments into hotels while they supposedly made repairs. We spent several holidays in a hotel suite that was not comparable to my three-bedroom, one-and-a-half bath apartment. My family checked out of the hotel on Tuesday, October 1, 2019, a year later.

Several residents were forced to move back into a different unsafe and unsanitary apartment after living in the hotel for a year. The health and safety of residents is still at risk, forcing residents to face these same old substandard conditions again when the apartments were supposed to be fixed. We are forced to live in substandard conditions in spite of written communication to Millennia Management and HUD.

I firmly believe not one person here today would want their family to endure now, or in the future, such deplorable conditions. All low-income families should be treated with human dignity and fair-

ness. I am a long-time advocate who has been on the ground advocating for decent, safe, and sanitary housing.

However, my family and other families were faced with retaliation evictions from Millennia Housing Management. Additional retaliation came when Millennia abruptly stopped paying for the hotel, forcing low-income residents to pay the hotel fees out-of-pocket or face homelessness.

As of today, one family with a son with a disability is still living in the hotel, struggling to pay and cover the fees, while management claims there is a legal issue. But this is wrong. Families were displaced because of the failures of management.

The PBCA does not work, and HUD failed throughout the years to make sure all residents' homes are decent, safe, and sanitary. One example, in May of 2018, in a REAC for my community, HUD rounded off a final REAC score of 59.54 to 60, which they have used as an excuse not to sanction the owner as required by HUD Notice 2018-8.

If the tenant empowerment legislation proposed by NAHT is passed, this will allow tenants to withhold the tenant's portion of the rent in escrow for units found to be substandard by HUD, and withhold HUD's larger portion of the rent. This will increase pressure on the property owners and bring owners and HUD to the table.

If HUD won't act on its own when buildings are substandard, Congress should give residents the power to make them do so.

If a HUD REAC score does not reflect actual conditions, this legislation would allow residents to trigger a new inspection with a tenant petition.

If HUD takes action to enforce its own contracts with owners, this bill will give residents the legal standing to sue and force these contractors into Federal court.

This bill will give tenants the power to make owners and HUD do their jobs and provide residents with the safe, decent, and affordable housing that we deserve.

We ask you to pass this bill.

Thank you for the opportunity to testify today.

[The prepared statement of Ms. Rivers can be found on page 58 of the appendix.]

Chairman CLAY. Thank you, Ms. Rivers, for your testimony.

Ms. RIVERS. Thank you.

Chairman CLAY. Mr. Cabrera, it's so good to see you back on Capitol Hill.

Mr. CABRERA. Likewise, Mr. Chairman.

Chairman CLAY. You are now recognized for 5 minutes.

**STATEMENT OF ORLANDO CABRERA, PARTNER, ARNALL
GOLDEN GREGORY LLP**

Mr. CABRERA. Thank you, Mr. Chairman, Ranking Member Stivers, and members of the subcommittee for inviting me to testify today. I am grateful for the opportunity.

My immediate concern surrounds the newly released specific discussion draft legislation—not all of it, just a particular portion of it.

That discussion draft is entitled, the “Ensuring Performance-Based Contract Administrators Actually Perform Act.” That is unfortunately named. It seeks to amend the 1937 Act, and potentially harms the mission of providing safe and decent housing.

The discussion draft legislation is not helpful because it creates groundwork to impair competition between those entities already federally-qualified to act as PBCAs. As Margaret noted, PBCAs are very committed to undertaking their roles as enthusiastically as they always have for 2 decades. This Act simply makes that a lot harder and a lot more expensive.

PBCAs provide HUD services that help HUD’s statutorily-mandated mission to serve low-income Americans. Limiting competitors under the 1937 Housing Act would cause competitors to do less, not more. That would not serve HUD’s mission.

The draft legislation is unhelpful for other reasons, as well. One of the reasons is that it creates legal issues where none currently exist. The draft creates visions that are unsupported by law, policy, or decades-old practice. The Housing Act of 1937 has done the heavy lifting of housing low-income Americans for 82 years.

Contrary to popular notions, federally-assisted housing is a remarkably narrow legal concept that touches millions of lives. Operationally, the 1937 Housing Act’s Section 8 program is built upon the legal provision that empowers the Secretary to contract with congressionally-determined entities called public housing agencies.

The Housing Act of 1937 creates, and HUD regulates, public housing agencies. Public housing agencies include States, counties, cities, and other governmental entities that engage or assist in the development or operation of public housing, like public housing authorities.

Lots of entities engage or assist with the development or operation of public housing. Let’s start with public housing agencies that are also public housing authorities. Those are two different things.

In nearly all States, public housing authorities are creatures of the State, not the Federal or local government. They allocate Section 8, operate public housing, or both, as those programs are specifically authorized under the 1937 Act.

In most States, over 40, State statute-governing public housing authorities expressly permit them to enter into contracts, nearly any contract, with the Federal Government. And in most cases, those laws allow them to contract with HUD specifically in every context.

The discussion draft legislation seems to focus its concern on housing finance agencies. What are housing finance agencies? As Margaret noted, housing finance agencies are also created as a matter of State, not Federal, law. Many, like the one I led, the Florida Housing Finance Corporation, as an example, are not State agencies or attached directly to the State Government. And unlike public housing authorities that HUD itself has pronounced as capable of acting as PBCAs, HUD has made no similar expressed determination that HFAs are necessarily instrumentalities of their State.

Unlike public housing authorities, housing finance agencies do not own or develop public housing. In fact, most neither own public

housing nor administer Section 8, which again is not public housing.

In all other relevant respects, the concerns that the draft legislation seeks to clarify seems to apply to any government agency that is a public housing authority, housing finance agency, or other governmental entity, like a county or city housing department.

So, that begs the question, why does the draft legislation only mention public housing agencies that are HFAs? I think it is designed to do a couple of things. It is designed to address a problem that is not fundamentally there, and I think it is designed to make sure—I am not sure, as it is a discussion draft—that somehow those things that have not been clear in the past become clear now. But it has accomplished exactly the opposite of that.

Now, just for the record, there are people out there who think that HFAs are not public housing agencies. I am not one of those people. I led an HFA. I have been on NCSHA's board. So, I am not in that school.

I do think there is a better way to approach this. Margaret rightly noted that HUD has had an uneven record with respect to procurement, which I am happy to talk about as I was heavily involved in all of that.

But it seems to me that the right way to proceed might be to have an agreement that the Housing Act says certain things, and one of the things it says is that public housing agencies administer Project-Based Section 8. Maybe, we can begin there.

Thank you for your time. I am ready to answer all of your questions.

[The prepared statement of Mr. Cabrera can be found on page 36 of the appendix.]

Chairman CLAY. Thank you, Mr. Cabrera, for your time. I now recognize myself for 5 minutes for questions.

Ms. Rollins, recently, we had a situation in St. Louis where a tenant had cockroaches in her apartment, which turned out to be an infestation, despite the efforts of the St. Louis City Housing Authority, and unfortunately, she had to live in her car for a short period of time.

Can you talk about the cooperation that was necessary to ensure that our fellow St. Louisan and her children had a safe place to live?

Ms. ROLLINS. Thank you, Mr. Chairman, for bringing up that example.

The City Housing Authority has thousands of public housing units. The St. Louis County Housing Authority, now that we have absorbed Wellston, has about 501 public housing units. But regardless, there should never be a situation where a family is put in that type of situation. I think that Ms. Collins spoke very eloquently to that.

There should never be a situation where a family is paying for their relocation from being in a unit that is not up to par. I was very sad to see the City Housing Authority take so long to pay attention to this particular situation, and it took many, including your office, to get them to pay attention to this situation.

I would like to hope that all housing authority directors, who are all people responsible for the people we serve, would take an inter-

est and get out into the field and find out what's going on in those communities. I tend to be that type of director. I am out of the office much more than I am in the office, and I think it is important, even when I send my staff into the trenches, that I go with them.

But not everybody feels that way, not everybody believes that, so it is important for us to have some rules in place so that we can be assured that everybody is getting—that we are at the same level of looking at things and that we are at the same level at dealing with situations. I would hope that if the Wellston Housing Authority had been under our purview a long time ago, this would not be where we are today.

So, those are some of the issues. I agree with the issues, as well, about housing authorities, about HUD and the REAC inspections and not feeling that they are strong enough. Because when I go into a unit, I am looking at a unit in terms of whether I would live there myself, or whether I would have any of my family members live there.

Chairman CLAY. Excuse me. Let me ask Ms. Salazar, not to cut you off, but Ms. Salazar, a March 2019 report from the GAO paints a picture of an overwhelmed and underresourced Real Estate Assessment Center (REAC), the part of HUD responsible for inspections of public and multi-family housing. We also know that HUD lost almost 50 percent of its staff since 1991, and almost 20 percent between 2008 and 2017, more than any other Cabinet-level Department during this time.

If these levels of staff lost and resource depletion continue at HUD, what would be the effect of the Department's ability to ensure the availability of safe and decent housing for lower-income Americans?

Ms. SALAZAR. Mr. Chairman, thank you for that question.

I think we are definitely concerned about the overall capacity of being able to ensure the oversight of the HUD-assisted portfolio. Our role, as the performance-based contract administrator, is that we engage on behalf of HUD with providing the oversight for these properties. So, I think as HUD's staffing levels have diminished and capacity has diminished, it is even more important that we have mission-driven agencies, such as public housing agencies, that are on the ground working with these properties to be able to respond.

And I will give you one quick example of that. We have a tenant hotline, and we responded to a tenant complaint that they had no hot water in their unit. We raised that concern to the owner. The owner did not correct the issue. We raised it to HUD and we recommended that HUD abate the Section 8 payment for that apartment. HUD followed our recommendation and abated the Section 8 until the repair was able to be made. And it is only because of the relationship that we have, that we were able to do that. But without a robust PBCA program, that relationship is in jeopardy.

Chairman CLAY. Thank you.

Ms. Collins, tell me what you think the weaknesses are in the HUD inspection program? What did you witness?

Ms. COLLINS. Thank you for that question.

The weakness there is that NAHT has given HUD many recommendations on how to better help them do this. But I see the

situation. I understand the problem that they do not have enough people to take care of the plans. But I think that, had they done stuff in the beginning, it would not have gotten this bad, and that is why we urge you today to pass the tenant empowerment bill, to force HUD to do better, because they could have and they didn't.

Chairman CLAY. Thank you.

The gentleman from Ohio is recognized, Mr. Stivers.

Mr. STIVERS. Thank you, Mr. Chairman. I want to thank you again for holding this hearing. It is a very important topic and we need to make sure that people are in safe and decent housing. And I want to thank all of the witnesses for being here.

Mr. Cabrera, welcome back to the committee. I think you have a unique insight as somebody who has formerly worked at HUD and is now a housing developer and provider.

In past testimony, you have talked about how HUD is woefully inadequate, both in the technology at their disposal and the data collection and data use they have to improve conditions and to improve outcomes. Do you believe this contributes to the quality of housing stock that is either unsafe or not decent?

Mr. CABRERA. It does. I think that contributes in a couple of ways. The first one is just with respect to REAC inspections. Being the guy who principally was responsible for REAC oversight at one point, the data that is being collected is being collected using methodologies that are 30-years-old. HUD, in some areas, still uses Excel spreadsheets to collect data. That is a significant problem. It means that they cannot relate—

Mr. STIVERS. I did that in college in the 1990s.

Mr. CABRERA. —the bad circumstances, as my colleagues to the right have recounted, to any kind of correlation.

Mr. STIVERS. That's not very good follow-up there, and not a very good tickler system and not a very good way to keep that data—

Mr. CABRERA. In part, if I may, Mr. Ranking Member, that is not entirely a HUD thing. That is going to be an institutional decision, not HUD's institutional decision, but the body's institutional decision to invest in data collection and invest in the technology. And I'm not casting—

Mr. STIVERS. If we were to do that, do you believe that could be used to not only track the quality of housing stock, but also track outcomes of residents and improve outcomes of residents?

Mr. CABRERA. It would improve things soup to nuts. From HUD's perspective, from each PBCA's perspective, and from the residents' perspective, and the owners, by the way.

Mr. STIVERS. Thank you. One more for you, Mr. Cabrera. We hear a lot about the rising cost of rental units. I hear a lot about that in my district. We have a shortage of supply, which results in higher cost and more competition. Do you think that is also making it harder for users of Choice vouchers to get access to homes?

Mr. CABRERA. I think it depends upon where it is. In some places where rent is far outpacing payment standards, it is becoming a crisis. It is a crisis. In other places, it is less so. It is not a uniform rule. I have two hometowns. I grew up in Boston, Massachusetts and in Miami, Florida, and in both places, it is in crisis mode at this point. So, it depends.

Mr. STIVERS. Yes, and I understand that market conditions matter. But in many areas, I think that is driving part of the problem and something we need to look at as a broader policy issue.

Ms. Rollins, thank you for being here. I really appreciated your testimony. Can you tell me, do you feel like HUD gives your PHA the flexibility you need to meet the unique challenges in your community?

Ms. ROLLINS. I think "flexibility" is the wrong word, really when we are talking about this. It is very difficult to work with some of the HUD offices, and also to work with all of the rules that are in place.

Mr. STIVERS. Help me rephrase that, then. Are the rules stifling your ability to serve your community? And is there a way to make HUD be a better partner in serving the populations you serve? How is that?

Ms. ROLLINS. That is much better.

Mr. STIVERS. Thank you.

Ms. ROLLINS. And the answer is, yes. Every community is different. You just heard that from Mr. Cabrera. Things are different no matter where you are, and I think that we have to take that into consideration. And local HUD offices have to understand our communities that we are working in.

You also have State Governments that are working with us or against us, and you have local governments that are working with us or against us, as well. We have to understand all of those pieces of the puzzle before we can really work at a problem and get down to where we can solve something.

Mr. STIVERS. I only have 35 seconds left. One last one for you, Ms. Rollins. Moving to work, does that give you better flexibility? Does that help you serve your community better? Yes or no, and if you want to expand in 23 seconds, you can.

Ms. ROLLINS. It is not something that we have used in the Housing Authority of St. Louis County. It has not been as effective as what we would like for it to be there, but it can be used in other communities, I think, very well. So, demonstration programs are important, and we need to look at all of the options for all of the communities.

Mr. STIVERS. If you have any other ideas to help make them a better partner, please follow up with us, and I yield back the balance of my time.

Ms. ROLLINS. Thank you.

Chairman CLAY. I thank the gentleman. And I now recognize the gentlewoman from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Ms. Thrope, public housing in our nation is in a state of crisis, and you put a face to what is going on in the public housing developments where you live, and Ms. Collins, and so many others.

So, despite the deteriorating conditions of our public housing system and the detrimental impact it is having on residents' health, for the second year in a row, President Trump and Secretary Carson requested zero dollars for HUD's public housing capital fund for Fiscal Year 2020, which is the main source of funding that public housing authorities rely on to address necessary infrastructure upgrades such as roofs, boilers, and piping.

Can you explain the impact zeroing out the capital fund will have on the conditions in public housing?

Ms. THROPE. Thank you, Representative Velazquez. The failure to fund public housing has had an incredible impact on public housing residents around the country, and it has led to deteriorating conditions for many families. Public housing plays a critical role in many communities. It is often the only form of deeply affordable housing for families because it is an income-based rent. And, so, it is all the more important that we put the resources in to preserve it.

I want to note that when we do not preserve public housing, when we fail to fund public housing, HUD's response historically has been to demolish it. When we demolish public housing, what happens if you have—we do something called voucher the tenants out, where we give families vouchers. And many communities around this country cannot absorb the vouchers, as we were just discussing when we voucher out these public housing residents. And, so, that itself is contributing to the affordable housing crisis, and there are examples all over the country where the voucher markets just cannot absorb the vouchers as a result of demolitions and families are displaced.

Ms. VELAZQUEZ. Thank you. And as a result of that, I introduced legislation, H.R. 4546, the Public Housing Emergency Response Act, which will authorize \$70 billion for the public housing capital fund and address all the capital repair needs of all public housing authorities around the country.

Are you supportive of a funding infusion of this kind? And how would it improve the living conditions and health needs of residents?

Ms. THROPE. We would support any increase in funding for the public housing programs due to the severe capital needs at many properties, as well as the maintenance repair backlog. So, any infusion of funding could significantly, positively impact the lives of public housing residents.

Ms. VELAZQUEZ. And it could happen—I don't know. I don't think that it will happen this year, but if there is consensus and bipartisan support, passing an infrastructure bill calling for trillions of dollars of investment. And what I have been advocating for is to treat public housing as part of our national infrastructure, and I hope that you will all be supportive of such an effort.

Ms. THROPE. Absolutely.

Ms. VELAZQUEZ. Thank you. I yield back.

Chairman CLAY. I thank the gentlewoman for her questions.

I now recognize the gentleman from Missouri, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

In listening to the commentary and your testimony up to now, a summary would be that there is a shortage of public housing, and that existing housing stock is in definite need of repair. And some of the other things that have been said, that there is a shortage of money to be able to do all these things. We have problems with HUD inspectors, and we have owner problems, being able to get owners to live up to the agreements to take care of their property. So, it is a multi-faceted problem that we are talking about, and I

appreciate all of your commentary today. I think it is important we get the full picture.

Let me start with Mr. Cabrera. As we have heard today, public housing capital funds face a shortfall of up to \$70 billion. HUD's Rental Assistance Demonstration project (RAD) was created under the Obama Administration in 2011 to preserve and maintain affordable housing. RAD gives public housing authorities the ability to convert public housing into long-term, Project-Based assistance while leveraging public and private debt and equity.

Do you think RAD has been successful in meeting its goal of preserving affordable housing?

Mr. CABRERA. I think RAD has been indispensable to converting and preserving affordable housing. I think that the idea that RAD somehow harms communities is something I just have not experienced. I have seen housing authorities transform, and I have seen tenants' lives transform through RAD. RAD assures affordability for a period, generally for decades, for between 35 and 50 years, depending upon what State you are in.

I think that, candidly, RAD would move more effectively if housing authorities did not have to incur a significant financial hit when they undertake a RAD deal, because what is happening is you are losing public housing stock, and you are increasing either Project-Based vouchers or HAB contracts. But it impacts their bottom line severely and they have to transition operations. Many housing authorities struggle with that, which is why they are not undertaking RAD. Just a couple of great examples. I'm sorry, Congresswoman Velazquez. NYCHA has had a really hard time with RAD just simply because of scale and expense.

So, I guess I am beating this horse, but the answer is yes, Congressman.

Mr. LUETKEMEYER. I love that answer. That is a lot of explanation there. Thank you for that.

In light of this massive shortfall of capital funds that we have been talking about here, what other options are available to help preserve our housing stock?

Mr. CABRERA. Is that for me, as well?

Mr. LUETKEMEYER. Yes.

Mr. CABRERA. I am deeply concerned that the capital fund is in constant crisis. I don't know that there is a \$50 billion shortfall in capital needs in public housing. Here is what I can affirmatively say as a matter of firm metrics: It is above \$36 billion. We know that.

I do not have the expectation, just generally as a matter of budget reality, that Congress would appropriate something on the order of \$36 billion or \$50 billion for the purpose of revisiting public housing.

I think trying to leverage those mechanisms that exist currently to the fullest extent possible is a critical thing. For example, currently, Senator Maria Cantwell from Washington, and Senator Todd Young from Indiana, have a bill that expands the Low-Income Housing Tax Credit, and that would be a very good thing for public housing authorities looking to revisit their assets because public housing authorities, when they compete within 9 percent cycles, a particular kind of Low-Income Housing Tax Credit, they are com-

peting with the entire marketplace. And if you do not expand that pool, it is going to be harder and harder for them to win very scarce resources. So, I would encourage that kind of thinking.

Mr. LUETKEMEYER. I know that we have talked about this many times and there has always been a problem with a shortage of units. One of the things is always the rules and regulations, the local ordinances, and the costs that the contractor incurs.

Do you think if we had, with the Low-Income Housing Tax Credit program—if you had some waivers attached to that for some of the regulations, the local stuff that just adds cost upon cost upon cost to these projects, it would be helpful? Or find a way to put waivers on there? What would be your suggestion? Because it is ridiculous that 25 percent of the cost of one of our hearings one time was due to regulation.

Mr. CABRERA. Right. I was a developer for a company that was based in southern California that developed in California and other States, and soft costs, which is what you are referring to, was an enormous carry in the context of all of our deals.

How do you reduce that? That is probably as complex a question as I can think of in places like California because there are so many other laws, State laws and regulations that come into play. It is hard to answer that question simply for that reason. So, in California, can it be reduced? The answer is yes, it can.

Mr. LUETKEMEYER. It does come into play with regard—

Chairman CLAY. The gentleman's time—

Mr. LUETKEMEYER. —to getting housing to be affordable.

Mr. CABRERA. Yes, it does.

Chairman CLAY. The gentleman's time has expired.

Mr. LUETKEMEYER. Thank you, sir.

Chairman CLAY. I now recognize the chairwoman of the full Financial Services Committee, Chairwoman Waters, from the State of California.

Chairwoman WATERS. Thank you so much, Congressman Clay, for holding this hearing. And I want to thank you for all of the work that you are doing relative to your area, St. Louis, Missouri, and your focus on Wellston and all that you are attempting to accomplish to make sure that HUD is providing the resources and doing what can be done for revitalization and providing opportunities for tenants.

But more than that, Mr. Chairman, I want to thank you because you have here before you today Ms. Geraldine Collins, the board president of the National Alliance of HUD tenants. I met with them a few months back to talk about how Congress and HUD can help ensure that tenants are empowered to hold their landlords and HUD accountable when it comes to conditions in housing that no one should have to live in.

I cannot tell you how pleased I am about their advocacy because oftentimes, we accuse tenants of not being involved, not speaking up for themselves, and now we hear a real voice and real advocacy and organizing. However, they are doing it without the support of HUD, and HUD has, as I understand it, \$10 million that should be directed toward helping tenants to organize.

So, the question becomes, and I guess I just want to get this on the record for Ms. Collins, has HUD made any attempt to talk

about how they are going to release the resources that should be available to tenants to help in this organizing effort?

Ms. COLLINS. No, they haven't. Thank you for that question. No, they haven't. We have met with them several times—not several times, many times, month after month, year after year, and they have never given us an answer.

Chairwoman WATERS. They have not given you an answer about resources, and you are out there working, using your own resources to organize and to get people together and travel and all of that? And at the same time, HUD is not, as I understand it, living up to its responsibility for repair and for the upkeep of the housing for which it has the oversight and management, is that correct?

Ms. COLLINS. That is correct. They can bring down to \$10 million a year, annually, and all they need to do is to put out to different areas in the different States \$1 million to help tenant associations organize. If they put that money out there, tenants would be able to be organized, whereas right now, we had VISTAs; if we did not have the VISTA Program in the last 4 years, a lot of people would have lost their homes.

Chairwoman WATERS. This NSPIRE Demonstration, what is that all about? Is that about inspections? What is happening with that?

Ms. COLLINS. It is another gimmick that HUD just comes up with. And I say that to say this because the new NSPIRE model gives the owner the opportunity to self-inspect. We are against the self-inspection because there is no number, there is no—it is not counted, when they self-inspect. Now, they are inspecting units from 30 percent to 50 percent.

We do not understand the logistics of what they are trying to do. It is like, of all the recommendations that NAHT has given them over the years, they have only honored one, and that was the civil monetary penalty, which they still have not honored. They gave a property and Tridge Rotary in Texas, they gave them a civil monetary penalty, but then they took it back.

Chairwoman WATERS. Well, let me just tell you, that I have met with Ms. Pressley and I have met with Ms. Tlaib, and we know that you are contemplating possible legislation.

Ms. COLLINS. Yes.

Chairwoman WATERS. And if this legislation is introduced and we work on it, it would be tough, it will deal with the issue, and so we are going to meet again.

Ms. COLLINS. Yes.

Chairwoman WATERS. We have a meeting that is being planned in December where we will meet with the nonprofits who have Section 8 housing or HUD housing or what have you. And, so, Ms. Tlaib and Ms. Pressley and I are focused on this and we are with you.

Ms. COLLINS. Thank you for that.

Chairwoman WATERS. And I yield back the balance of my time.

Ms. COLLINS. Thank you.

Chairman CLAY. I thank the chairwoman for her questions, and for pointing out that tenants do have rights. I appreciate that.

At this time, we recognize the gentleman from Colorado, Mr. Tip-ton, for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman, and I appreciate all of the panel taking the time to be here.

Obviously, housing in all of our areas, for all residents, is something that is critically important. I would like to be able to maybe expand a little bit of the conversation, because the focus seems to be an awful lot in urban areas, which I do not discount in the least. But I happen to represent rural America, where we do have housing issues, as well, in terms of being able to be addressed.

In response to the chairwoman's question in regards to the NSPIRE program, I wanted to follow up on that a little bit with you, Mr. Cabrera. In regards to the program, it has been updated with the intent of being able to improve inspections, to know where maintenance issues arise. As a former secretary for public housing, what reforms should the inspection process take into account, especially when it applies to rural America?

Mr. CABRERA. I think NSPIRE needs some meat on the bones. I think one of the problems that both HUD and the stakeholder community has, including my colleagues to the right, is that it seems a little bit rudderless right now. It would help to have a rudder. It would help rural America as much as it would urban America.

I remind people all the time that Section 8 and public housing are indispensable to rural America. They are not just urban products. It is really amazing, but the two States with the largest number of counties are Texas and Georgia, and those counties all have public housing authorities, and they are generally small. There are generally fewer than 15 or 20 units. And it is important that they get some guidance with respect to how this will all work.

I think the other thing is they just have to figure out a way for people to have a remedy in the event that there is an adverse decision. So, if someone disagrees, they have to have a place to go.

Mr. TIPTON. We have had testimony in regards to having tenant participation. In terms of developing that rudder, that outreach, who else should HUD reach out to?

Mr. CABRERA. That is a very big group, Congressman. Owners are an indispensable part of that conversation. I read the legislation, the draft discussion legislation. Congressman Lawson's bill has a lot in it that is very worthwhile to discuss, and then there is a lot that I can tell you affirmatively, stakeholders will have significant commentary upon. So, given that it is the first step in the process, it is a hard question to answer.

Mr. TIPTON. And we had had the comments in terms of self-inspection. I wanted to be able to maybe get your sense a little bit. Given the territory that I represent, we have 54,000 square miles of Colorado. For the most part, there is no easy way to be able to get from here to there without going over three mountain passes to get into those areas.

Are there some benefits to self-inspection that we might be able to employ, particularly in the rural areas?

Mr. CABRERA. The self-inspection is used in other facets of ownership that do not have to do with affordable housing, but they always come up with some other mechanism to ensure the accuracy of the inspection. That would be helpful.

The other thing to keep in mind is it is not always just self-inspection. Generally, there is a planning and zoning or building department involved for some jurisdictions. A county, a city, if it is in fact an incorporated city, and having coordination with those codes is important, as well.

Most Federal inspection criteria depends heavily upon what either local codes say or State codes say. It is not entirely, or even mostly, a Federal question. And, so, so much of that has to do with how you articulate that and what we mean by self-inspection.

I can easily see the other side of that coin. But just to say if I were a tenant and it would be entirely ownership that is inspecting, that would cause me incredible stress. But I do not think that is what anybody has in mind.

Mr. TIPTON. Okay. I really appreciated my colleague, Mr. Luetkemeyer, kind of encapsulating the variety of challenges, again, that you just alluded to in terms of some of the costs that are associated with developing affordable housing. In a lot of our resort communities, particularly, based off tourism, they had not even really planned, had any kind of a plan, to be able to develop it.

Could some of the maintenance issues actually maybe help some of that dilemma that we face in those areas?

Mr. CABRERA. Yes, I think they are suffering from the same challenges as public housing authorities with a capital need generally. And when it comes to a lot of those housing units in your area of Colorado, which I am tacitly familiar with, I will say that some of those units are Low-Income Housing Tax Credit units and they work under a different regimen.

Mr. TIPTON. Okay. Thank you.

Thank you, Mr. Chairman.

Chairman CLAY. You are welcome.

And I am now going to recognize the gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Subcommittee on National Security, International Development and Monetary Policy, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman.

I am going to direct this to you, Ms. Rollins. About 10 years ago, I was with a group in London, and while there, we decided to try to meet with what would be comparable to the Housing Department of London, mainly in what is called Old London. One of the places we received a lot of information on was a 24-story tower called Grenfell Tower.

And, so, here in Washington, in my little apartment across the street in June of 2017, I was looking at the news and all of a sudden, they show this fire at the Grenfell Towers. And if you have not seen it, you ought to pull it up. You would wonder how anybody got out of it alive. And to be sure, 70 people died in that fire. Even today, there are arguments over what caused it. Somebody said, cyanide something, and somebody else said, electrical fire with a freezer, and all kinds of things.

But even while I was back here, I got angry about it, because I used to live in public housing. I am just thinking, I wonder if there were ongoing inspections, and maybe more significantly, when I bring it home, I wonder, are there standardized inspections, and wouldn't we be better off if we—I lived in public housing, self-in-

spection, all that, so I am talking experientially. No sociology book. I am talking about living there.

Do you think we need to have standardized inspections?

Ms. ROLLINS. We have to have some standard in inspections. In St. Louis, I mentioned we have 92 municipalities. So, you have unincorporated St. Louis County doing inspections, you have other communities doing inspections, and no one is doing it the same way.

In the City of Wellston, there was so much confusion, collusion, whatever we would like to call it. An inspection was done, but it was never done, but it was paid for by the housing authority. And that is a crime. We have to have standardized inspections that make sense and that everybody can be on the same page with.

We also have opportunities for ordinances that say if a private owner develops a building as, for instance, TEH, and they are condemned—TEH buildings were condemned—that company should pay for the relocation of those individuals. So, I think there are ways to work through these issues with standardized inspections, with ordinances that put the responsibility back on the owner.

And I would just like to make a comment in regard to the cost of doing housing. I also think that some of the astronomical developer fees that are being taken in today's environment are also very negative, as well. But I would say we definitely need a standard that makes sense for inspections.

Mr. CLEAVER. Thank you.

Mr. Chairman, I am going to yield back.

I would encourage anybody, particularly my colleagues, if you get a chance tonight, to look up that fire online. It will remind you of 9/11, the way that building is just completely destroyed. I keep wondering, can it happen here, and the sense I get is a resounding yes.

Thank you, Mr. Chairman.

Chairman CLAY. Thank you, and I thank the gentleman.

Now, the gentleman from Tennessee, Mr. Kustoff, is recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman. Thank you for convening today's hearing, and thanks to the witnesses for appearing this afternoon.

Mr. Cabrera, with your experience at HUD, can you talk to us about the Rental Assistance Demonstration, the effectiveness over the last 6 or 7 years since its creation? I guess, in essence, do you think it has met its goal of preserving affordable housing?

Mr. CABRERA. I think it has met its goal of preserving affordable housing, and I think it has met its goal of creating units that better serve its communities and its residents.

Mr. KUSTOFF. Are there other ways that Congress could be looking at more ways to include private sector funding for public housing?

Mr. CABRERA. For one, the Cantwell-Young bill in the Senate would—a corollary in the House would be terrific.

The tools that we now use to develop affordable housing do not necessarily emanate from HUD. They emanate from the Internal Revenue Code, specifically Section 42 and Section 142—143. And,

so, at the end of the day, leveraging those mechanisms which really invite private investment is important.

RAD works, mostly because it allows a housing authority that applies for a version of something called a disposition, a conversion from Section 9, which is public housing, to some form of Section 8. So, it is either going to be Project-Based vouchers for a term of 20 years, or it is going to be a HAB contract, and that makes it financially supportable to do the deals.

So much of affordable housing has to do with whether a particular, discrete transaction pencils out whether it makes financial sense not in one year, but over the entire life of the development. RAD makes that possible for purposes of all of these conversions.

Mr. KUSTOFF. In the questioning from Ranking Member Stivers, you talked about technology and the technology being outdated. You talked specifically about still using Excel. That is one issue.

Is employee turnover also an issue? And if so, to what effect? And I mean turnover at HUD.

Mr. CABRERA. It is not just an issue. It is an Enterprise-wide, Federal crisis, but it's particularly acute at HUD.

When I was at HUD, as I recall, we had a total of 8,800 employees. Approximately 40 percent of those folks worked in my world. And that went up to 9,300 employees between 2008 and 2016.

For a variety of reasons, not the least of which is the aging of the Federal workforce, we are down to 7,800, perhaps 7,700 employees at HUD. And as I commonly say when this comes up in the conference setting, when I was in office—it has been fully 12 years since I resigned, come January—60 percent of HUD was qualified to retire. And that number has only gone up.

So, part of the issue here with HUD is it is suffering through the weight of a lack of physical capacity within its personnel pool.

Mr. KUSTOFF. Thank you. If I could, one last area, and that is as it relates to lead hazards in housing. Can you talk about the progress that HUD has made maybe since your time at HUD to now, what progress has been made and what you have seen?

Mr. CABRERA. One of the unwritten success stories, however uneven the successes have been, has been Federal efforts in lead-based paint remediation. That history begins in 1973 and it progresses in 1978. And what it actually caused was in a single-family home setting and in a multi-family home setting, assuring that either you receive notice that there is a lead-based paint problem; or if it is acute enough and it is a property prior to January 1, 1978, you remedy it. It succeeded particularly well with public housing because most public housing units were constructed between 1937 and 1984.

The only asterisk, the Roger Maris asterisk, to that answer is, as we have recently learned in the last 18 months, with public housing authorities—authorities plural—is that there have been incidences here and there, spot incidences, where certain authorities have misrepresented their compliance with lead-based paint remediation. That is a problem. It is a significant problem. I do not put that on the HUD pile; I put that on the public housing authority pile, and I do not include Ms. Rollins.

Mr. KUSTOFF. Thank you. I yield back.

Chairman CLAY. Thank you.

And we now go to the gentleman from Florida, Mr. Lawson, for 5 minutes.

Mr. LAWSON. Thank you, Mr. Chairman, and I would like to welcome you all to the committee. I really appreciate the work that you all do out there.

My father-in-law was involved in a government housing facility along with another university professor, and they used to spend an inordinate amount of time taking care of the facilities and providing activities and so forth for the youth. And I, myself, from being a college coach and playing a little bit of professional ball, I used to go into the facilities during the summer months and set up programs just for kids to have something to do on the playgrounds and so forth, and so I know the work.

But what has really bothered me in recent years is, because I spent a lot of time in these facilities, is it is really incomprehensible the way that HUD has responded to these organizations that have taken over most of these housing complexes. For instance, and I will just tell you that one of the residential facilities, Eureka Garden, Valencia Way in Jacksonville, has suffered immensely for several years due to mismanagement and unsafe living conditions, including mold, sewage, and all of the other things that go along with them.

Recently, because of a gas outage, many of them had to have food brought in because they were unable to cook in their own facilities. And then at the same time, which was very alarming, in order for them have to have hot showers, and a bath for their kids, they had to go into the parking lot, with trailers and stuff there, which I really thought was very inhumane for them to have to do that, especially women and children, early in the morning before they get ready to go to work or school.

And, so, I have sponsored H.R. 3745, the HUD Inspection Oversight Act, that would strengthen the HUD inspection process, providing more oversight and transparency. It almost seemed like there was a wall going on between HUD and these housing facilities. I have had the Secretary down in the Jacksonville area to review some of the conditions and so forth that has taken place. They will say that they are working on them, and this has been 3½ years, and they are still working on them.

It is unfortunate that you would even see a Secretary propose cutting millions of dollars from oversight for these facilities, looking at what exists. And you actually wonder, who are they working for? Are they really trying to help people really in these facilities have a quality of life that all of them should have? Because the government is not broke, and the government has—it is as if they do not pay any attention to what we send them from Congress.

But what they do is they are trying to save money on the very poor people who are struggling to keep a roof over their heads and provide for their families. A lot of these individuals that they are dealing with are women with kids, single heads of households, who are working, and doing the very best that they can. And I know it sounds more like a dissertation for most of you because you all see what happened in these inner cities and so forth.

My question is, in your relationship—I don't have much time, so I will start out with Ms. Rollins, and I might not get any further—

with HUD and bringing these dilapidated conditions before them, what takes them in another direction instead of trying to help people in need?

Ms. ROLLINS. I do not think that HUD sometimes has the mindset to really focus on what needs to happen. We are in the trenches by ourselves. As you say, it has taken 3½ years to really accomplish nothing. And since I have been at the Housing Authority for 11 years, I face the same situation. I am not sure why. I think it is very easy to not be involved and to not care when you are not there. And it is easy to put all of this responsibility on the backs, as you say, and that is so correctly put, of our tenants.

So, there has to be a way for Congress to make HUD step up to the table and step up to the plate and do what they need to do for the residents that we are involved with. You should not have to live the way we are living with these clients currently. It is abysmal, what we are going through. There should not be a Wellston. There should not be any of the localities that we have been talking about so far. So, we really have to put the onus on HUD to make a difference.

Chairman CLAY. The gentleman's time has expired.

I now recognize the gentleman from Tennessee, Mr. Rose, for 5 minutes.

Mr. ROSE. Thank you, Chairman Clay and Ranking Member Stivers, for holding this hearing.

I may be going out on a limb here, but I think we can all agree that when it comes to HUD-assisted housing, we want residents to live in housing that is safe, decent, and sanitary. But just to be safe, I would like to start off by asking for a show of hands from the witnesses here today, who here believes that every resident in HUD-assisted properties should live in housing that is safe, decent, and sanitary? Show of hands, please?

Great. We are off to a good start.

When it comes to taxpayer dollars, we have a responsibility to ensure that every dollar spent by the Federal Government is used wisely, efficiently, and for its intended purpose. Too often, my colleagues on the other side of the aisle claim that the answer to mismanaged Federal programs is providing more funding, more inputs.

Yesterday, the Washington Post reported on a Federal program, the HUBZone program, that actually funneled hundreds of millions of taxpayer dollars into Washington, D.C.'s richest neighborhoods at the expense of poorer areas because the program was using unadjusted and outdated data for years.

Throwing more money at a problem does not solve the underlying problem. If there is a problem with the program's outcome, maybe, just maybe, it is because we, in Congress, have neglected our oversight responsibilities as they relate to the funds we have already appropriated.

The answer is also not a total government takeover of local problems. Just yesterday, the House voted on and passed another continuing resolution instead of a full funding bill for Fiscal Year 2020 because Congress cannot agree to get that job done in a timely manner. We have not even passed a bill to fully fund our military for Fiscal Year 2020, one of the most basic constitutional responsibilities of the Congress.

Yet, there are some who make the case that the Federal Government needs more on its plate. I disagree. There are bipartisan programs that have provided affordable housing to millions of Americans, and we should look at what can be done to strengthen and possibly expand these programs. For instance, between 1986, when the Low-Income Housing Tax Credit was first enacted, and 2013, more than 13.3 million people lived in homes financed by the LIHTC housing credit.

I know that in Tennessee, the Tennessee Housing Development Agency has benefitted from and supports this program. The LIHTC overall has helped build or rehabilitate more than 3.2 million affordable housing units, leveraging more than \$190 billion in private investment to do so.

Mr. Cabrera, should policymakers change their thinking about how assisted housing in America works? Should we do more to encourage private investment in the production and preservation of affordable housing?

Mr. CABRERA. If markets do the work they can do with a private-public partnership, it works best. And if that is the case, that would include RAD conversions. That would include LIHTC. That would include private activity bonds with a version of LIHTC called the 4 percent LIHTC. And that would include, candidly, the HUD budget. So much more can be done if you let folks do it.

We always will get the bad story. The answer is to always work towards solving the bad story, but remembering there are a lot of good stories. And you just mentioned a huge one, which is roughly 13 million residents live in LIHTC units now after 33—well, actually it is technically 31 years.

So, at the end of the day, yes, they do it quicker, they do it better, and they do it less expensively. That is not to say that public housing does not have a place in some places. Public housing is the only recourse. It has to be preserved.

Twenty-five percent of public housing residents right now are elderly people. Another 18 percent, as I recall, I might be a bit off, are disabled. That is an important thing to remember. A good many public housing residents have single-parent households that rely on public housing. It is very difficult for me to conceive of a world without some form of public housing.

Mr. ROSE. Thank you. And I just hope that as we look at this issue, we don't just seek to measure inputs, but that we search for ways to measure outcomes.

Mr. CABRERA. I agree.

Mr. ROSE. Thank you, and I yield back.

Chairman CLAY. Thank you, and just to point out to my friend from Tennessee, the article that you cited today was on a program administered by the Small Business Administration called HUBZones, which relied on faulty data from HUD.

At this time, I recognize the gentlewoman from Michigan, Ms. Tlaib, for 5 minutes.

Ms. TLAIB. Thank you so much, Mr. Chairman. Thank you all so much for being here and for your incredible advocacy to protect a lot of my neighbors at home who are renters and depend on quality housing.

There are a number of changes that have been made, I think currently with HUD. One that I am very concerned about, and I just want to put it in the record is changing and removing disparate impact as a way to show housing discrimination within HUD. I know I have submitted comments, and I am very concerned about Dr. Carson and this Administration's move to try to make it impossible for people to prove housing discrimination.

The other is HUD's move away from their current mission statement. They are removing words like, "pushing to meet the need for quality, affordable rental homes." They want to remove that from the mission statement.

They also want to remove from the mission statement, "utilize housing as a platform for improving quality of life." Again, I'm very concerned in that move.

I also, Mr. Chairman, would like to submit for the record an article that is entitled, "Under Ben Carson, More Families Live in HUD Housing That Fails Health and Safety Inspections."

Chairman CLAY. Without objection, it is so ordered.

Ms. TLAIB. Thank you. Since 2016, we have seen a 30 percent increase in HUD properties failing inspections, and that is more than 1,000 properties not only missing smoke detectors, but other life-threatening issues regarding the inspection.

I want to talk a little bit about my district. Right now, we are working with a constituent whose building has been infested with bedbugs 9 times. The building is operated by HUD. Bedbugs have developed a resistance that makes them almost impossible to kill, very difficult to kill, and very expensive.

Recently, Detroit was actually named the fifth most active city for bedbug activity, noting that bedbugs have been popping up with regular kinds of patterns in public housing. It is very alarming that HUD's current physical inspection protocol has not evolved since its adoption 21 years ago.

Ms. Rivers, what flaws do you see currently in HUD's Real Estate Assessment Center (REAC), especially when it comes to bedbug infestation, as I previously described?

Ms. RIVERS. One of the flaws that I see for myself as a president for the tenant association is not allowing the tenants to participate in the REAC inspections. If they allowed the tenants to participate, such as for my community, where I know we have a lot of toxic mold, a lot of rats, and an infestation of roaches, we would be able to point these things out. So, that is a major flaw that I see in reference to the REAC.

Ms. TLAIB. You talked a little bit about having the residents involved. I know I am going to be working with Chairwoman Waters, as well as my colleague from Massachusetts, Representative Pressley, about having more support and capacity support for our tenants' associations that really help us hold a lot of folks accountable, including HUD and other folks who are involved in making sure there is quality.

But what would that look like to actually have tenants be involved in shaping what the Real Estate Assessment Center would do?

Ms. RIVERS. It would allow the tenants to do a petition to trigger an inspection. So, it is organizing, it is working together in the community, it is doing petitions. That is one way.

Ms. TLAIB. So, it's basically a way to inform the Federal Government that there is a problem here?

Ms. RIVERS. Correct, and it would trigger an inspection, a REAC inspection.

Ms. TLAIB. So the complaint system online does not work?

Ms. RIVERS. It does not work. I have been doing it for year after year after month after month. The PBCAs are a waste of residents' time. The protocol that HUD wants the residents to go through is a waste of time.

Ms. TLAIB. Yes.

Ms. RIVERS. It is a waste of time. It just does not work.

Ms. TLAIB. And there is a lack of urgency when folks submit, yes?

Ms. RIVERS. Yes.

Ms. TLAIB. This question is for Ms. Collins—and thank you so much for being here—I know there was a tenant survey that happened and kind of a sample like Real Estate Assessment Center-inspected properties. What were you trying to address there? What was included in the survey, and what was effective in addressing some of the concerns of the residents that you heard?

Ms. COLLINS. We were trying to bring back the tenants' survey for the simple reason of some of the issues that Shalonda just mentioned. The tenant association would be able to come along with the REAC inspector and inspect the apartment, along with the person who was inspecting. Because the tenants are the ones who live there, they know exactly what is going on in the building—instead of doing different things that HUD wants us to do.

And another thing, the survey would also keep the owners accountable and not let them get away with saying, we did this and we did that. Whereas, the tenants themselves live there, and they are the ones who know what is going on in that building.

Ms. TLAIB. Thank you, Ms. Collins. I agree with you.

Chairman CLAY. Thank you.

The gentleman from Wisconsin, Mr. Steil, is recognized for 5 minutes.

Mr. STEIL. Thank you, Mr. Chairman, and thank you, Ranking Member Stivers. I appreciate you holding today's hearing. I think what we are discussing is a really important topic.

I have a question for you, Mr. Cabrera. We have had a lot of discussion in this committee, and in particular over the course of this year, about the importance of funding and how that is going to make improvements.

I want to step back and also discuss what other meaningful actions we can take to solve the public housing, and particular focus on some of the local housing authorities that seem to cause significant failures to their residents. For example, the New York City Housing Authority, the largest housing system in the country, has been criticized for lead paint hazards, mold, heating failures, and in particular, chronic mismanagement. It seems the New York City Housing Authority has failed its 400,000 residents for years, endangering their health and safety. The Authority is now working

through an agreement with HUD to painstakingly address some of its long-standing problems.

Could you highlight a few of the steps that we should take to ensure that local housing authorities, like the New York City Housing Authority, properly maintain their public housing units and how we could prevent similar failures from happening across the United States?

Mr. CABRERA. NYCHA is in a class by itself. I cannot ascribe NYCHA's issues, and have them, on everyone else, and I will explain why.

NYCHA has 185,000 public housing units. NYCHA has 17,000 units called Mitchell-Lama units. They are State units. NYCHA has another 90,000 Section 8 vouchers.

One out of every 12 New Yorkers lives in a NYCHA property. And, on top of that, there are 5 boroughs, and they have housing, as a general rule, that dates back to the Roosevelt Administration. That is how that housing began.

Now, up until the 1980s, or actually the 1990s, NYCHA, as a general rule, was a pretty well-performing property manager. And even during my time at HUD, it was still well-performing, just not as well-performing as it had been in prior decades.

I do not know what has happened since then. I think NYCHA's biggest—NYCHA has a bunch of—I have to put the problem into pots. NYCHA has 11,000 employees. I want to say that again: NYCHA has 11,000 employees. That is fully one-third more than HUD. That is an issue.

NYCHA has a difficult time getting work done because there are competing trades that want the work, so there are 12 different collective bargaining agreements at NYCHA. That is a very difficult thing for management to juggle.

NYCHA has a political setting, unlike nearly any other city in the country, other than possibly San Francisco. And what I mean by that is there is a—the city council is—and forgive me—

Mr. STEIL. I am going to reclaim a little time here, because I only get 5 minutes.

Mr. CABRERA. Sorry about that.

Mr. STEIL. No, no, no. I think what you are describing is some of the bureaucratic morass—

Mr. CABRERA. Yes, I am. Thanks.

Mr. STEIL. —that we are seeing there. I am going to pause there.

Mr. CABRERA. Most public housing authorities do not have that.

Mr. STEIL. I am going to pause there. I think you identified a great thing that we can work on. I want to shift gears and ask you a question on lead.

Mr. CABRERA. Sure.

Mr. STEIL. This is an issue that impacts both public housing and non-public housing across the United States. I want to focus in on public housing in particular.

I held a roundtable recently in Wisconsin with the EPA Administrator and local leaders, discussing lead hazards for children. Can you comment, since your time at HUD, how we have done on making progress on lead hazards, paint, and in water in particular, as it relates to public housing?

Mr. CABRERA. Overall, on housing, with respect to issues having to do with friable services, services that are cracked, HUD has for the most part done a terrific job.

Now, has it done a perfect job? Absolutely not. What does that mean? It is very difficult for HUD to react well when they do not get good data, and very often, they accept bad data. That is part of the problem.

I am not including, by the way, anything that is lead-based and is not dealing with paint, so I am talking about surfaces within living units that are covered by the one Act that has been amended 3 times.

So, my short answer, if that is a short answer, is they have done a pretty good job with oversight. They have done a pretty good job in posting notices in most circumstances. Everything can be improved. But on the paint side, they have done well.

Mr. STEIL. I see my time has expired. I appreciate your time, and I yield back.

Ms. TLAIB. [presiding]. The gentleman from Texas, Mr. Gooden, is recognized for 5 minutes.

Mr. GOODEN. Thank you, Madam Chairwoman. We have heard a lot today, and I really appreciate you all for being here.

I wanted to kind of continue with Mr. Cabrera, and then I have a quick question for Ms. Collins.

Do you think that the resources that HUD has are sufficient, or do you think that we face just a problem with implementation in how they utilize those resources, or is it both?

Mr. CABRERA. It is both.

Mr. GOODEN. Feel free to elaborate.

Mr. CABRERA. It is both. HUD has been underfunded for the better part of 25 years in one way, shape, or form. There are a lot of reasons for that. I don't want to go into them, mostly because they are so varied, not because I don't want to talk about them. It would take us several hours, and you definitely do not want to hear me on that.

Here is the problem. Regardless, there are housing authorities that own units. For the record, HUD does not own units. HUD owns very few units. Housing authorities own units. They own the real estate. They own the product. That is who owns the units. Owners own units. HUD provides or allocates the resources you all provide them. So, at the end of the day, when you tell a housing authority that has a capital need your budget is being cut, or in fact done away with, which is a concern, a deep concern of mine, you are basically telling a resident they are going to have to either not get something solved, like bedbugs, or they are going to have to wait. That is a bit of a problem.

On the operational side, HUD has huge room for improvement. But part of their problem is what we alluded to earlier today, which is that they have a capacity problem because of retirements and departures. And every time someone departs, then someone is doing three jobs. That means that nothing can really get done well. Everybody becomes a jack of all trades and a master of none.

Mr. GOODEN. Thank you.

And Ms. Collins—thank you for being here, by the way—I would like to hear more regarding whether you believe there is appro-

priate recourse or an avenue for tenants to report and inform HUD about housing requirement urgent maintenance or repair, meaning—obviously, I have heard there are issues with it, but do you think that what we have on the books is appropriate, or is it just not being utilized like it needs to be?

Ms. COLLINS. Thank you for that question. I just don't think that it is being utilized properly. And, as I said earlier, if they had tenant participation in these buildings, you won't have that many problems. Because, first of all, like I said earlier, and I continue to say this, tenants are the ones who live there, so who better to ask these questions but the tenants? Involve the tenants somewhere in this aspect of planning or whatever, as we have been asking of HUD for many of years, to continue to respond and listen to the tenants. You don't have to take everything the tenants say, but let's just give you—

NAHT has given recommendations time and time again that make a lot of sense, but to HUD, it is not making any sense to them. And where do we go from there? We see these deplorable conditions and we still not hold them accountable. Someone has to be accountable.

You are looking at children living in mold. And as some of the pictures showed, there is a child who was there, and because of the mold, the back of his head was almost like embedded with whatever it was. But whose fault is that? We see mold. We see asbestos. We see all of this stuff.

And REAC, they have to do a better job and they are not doing it. Because when they go to inspect, if you had tenant involvement and that 514 money was in there for the tenant association and organization to organize, you wouldn't have that problem. So, we need that 514 money. We need tenants to organize and do a better job and help HUD. We are not working against HUD. We want to work with you.

Mr. GOODEN. Thank you.

Ms. COLLINS. Thank you.

Mr. GOODEN. Thank you all for being here, and I yield back.

Ms. THROPE. Representative Tlaib, if I may address a question related to lead that was addressed to Mr. Cabrera earlier, thank you very much.

I just want to make sure just to address the—there is a gaping hole right now with respect to lead paint inspections among the federally-assisted housing stock, and that is that voucher units, all voucher units across the country, and units that receive less than \$5,000 in Project-Based Section 8 funding, are actually—there is no requirement. There is no risk assessment for lead prior to a family moving into a unit, which means right now it takes a child exposed to lead paint, and a child who gets poisoned, before an inspector comes in and does a lead assessment, and this is impacting hundreds of thousands of voucher and Project-Based Section 8 families around the country.

The Lead-Safe Housing for Kids Act could easily address some of these issues by actually standardizing lead-based paint assessments among all of the Federal housing programs.

Thank you.

Ms. TLAIB. I just wanted folks to know that many of my colleagues have a caucus vote. That is why they are not here. It is not because they don't want to listen to you all, and they do have copies of your testimony.

But I would like to thank all of our witnesses for their testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing is now adjourned.

[Whereupon, at 3:52 p.m., the hearing was adjourned.]

A P P E N D I X

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RE: Written testimony of Orlando J. Cabrera, Former Assistant Secretary for Public and Indian Housing, United States Department of Housing and Urban Development ("HUD") with respect to testimony to be provided on Wednesday, November 20, 2019 before the Subcommittee on Housing, Community Development, and Insurance of the Financial Services Committee ("Subcommittee")

Dear Chairwoman Waters:

I would like to thank you, Ranking Member McHenry, and members of the Financial Services Committee and Subcommittee for inviting me to testify with respect to the topic of "Safe and Decent? Examining the Current State of Residents' Health and Safety in HUD Housing." I am grateful for the opportunity.

Since my time serving at HUD, I have held two roles that have helped me understand HUD's implementation of policy with respect to providing "safe and decent" housing. This testimony focuses upon specific observations from my perspective as a lawyer and as the chief executive officer of a developer and owner.

Regardless of the pointedness of my comments herein, I want express my genuine, continued, and profound respect for the overall HUD team that ultimately does their work daily. They were (and figuratively although no longer officially, remain) my colleagues and I support their mission. Further, most days, HUD gets an awful lot right. These observations relate to more effectively moving HUD toward the objective of assuring "safe and decent" affordable housing particularly when it veers a bit off from that which is clearly permitted by law or regulation.

"HUD Housing" has a broad potential meaning. The spectrum of housing modalities referenced by the term "HUD Housing" includes single family homeownership on one side of the spectrum and ranges along that spectrum on the other end toward public housing.

Furthermore, it is conceivable that other HUD programs, such as HOME, the Community Development Block Grant, including the Community Development Block Grant – Disaster Relief program, can also include the concept of “HUD Housing.” Yet, HUD does not provide housing. HUD “owns” nearly no housing. HUD allocates Congressionally-appropriated resources under authorization statutes and supplemental appropriations that ultimately allow other entities to house Americans.

Those entities that directly or indirectly receive the benefit of Congressional support include for- and non- profit entities, public housing authorities (“PHAAuthority” or, if plural, “PHAAuthorities”), public housing agencies (there is a difference between PHAAuthorities and public housing agencies), and individuals. This written testimony focuses upon multifamily housing that receives federally funded housing assistance, which we call federally-assisted housing. It excludes other tax appropriation- and tax expenditure-based Congressionally-created housing programs undertaken by other agencies, including the United States Department of Agriculture, military housing, and the Internal Revenue Service.

While the Subcommittee’s topic today is punctuated with a question mark, the topic perhaps more appropriately merits one of those ever blinking ellipses we see on computer screens than any other punctuation because anything relating to “safe and decent” federally-assisted housing must always be a work-in-progress that seeks out the best tools over time for the purpose of improving tenants’ lives. The wide ranging nature of the assets that HUD impacts requires a fluid and constant oversight role. Contrary to popular notions, federally-assisted housing in a direct sense, such as public housing, project based Section 8, Housing Choice Vouchers, Project Based Vouchers, Section 202 (housing for the elderly), and Section 811 (housing for the disabled) can be narrowly defined for purposes of this testimony yet nonetheless federally-assisted housing under a narrow definition touches millions of lives. All housing providers, be they developers, public housing agencies or owners, work daily to meet HUD’s legislative, regulatory, and non-rule policy requirements and commonly exceed the legislative notion of “safe and decent housing.”

As noted above, Congress and HUD have determined that federally-assisted housing has a specific meaning under federal law. Federally-assisted housing excludes housing constructed using other housing-related resources, such as affordable housing constructed using the low income housing tax credit (“LIHTC”), that after successful construction, have tenants who use federal housing assistance.

Altogether, there are millions of Americans who live in federally-assisted units in the United States. All of the units they use are impacted by statutes, regulation, and policy pronouncements - and affirmative legal agreements assuring that owners of units abide by federal law.

Federally-assisted housing costs a lot of money – both federal and otherwise. All providers receiving federal funds must rightly comply with Fair Housing law and regulation,

National Environmental Protection Act (“NEPA”), lead-based paint remediation and notice laws and regulations, (often) Davis-Bacon law and regulation, and other federal requirements. Few providers expect serious relief from these long required provisions, but they also do not expect those provisions to impede their legally required assurance of complying with Congress’s directive that federally-assisted housing be “safe and decent.” All stakeholders have long incorporated compliance with those and other federal programs into their business plans and operations.

With few exceptions, like all federal agencies, all Congressional appropriations that are administered by HUD must require HUD to assure that recipients of federal funds comply with housing and non-housing-related federal laws. Most notably, those are the overarching, cross-program laws mentioned above, such as lead-based paint notice and remediation, Davis-Bacon, Fair Housing, environmental (NEPA), and 24 CFR Part 200 compliance. My testimony does not advocate deviation from anything but faithful adherence to those important laws. As a rule, though, the stress point between HUD and stakeholders often touches on how those cross-enterprise laws apply to housing-related activities.

Sometimes, HUD administers federal laws in a manner that impedes the objective of providing “safe and decent” housing by adopting policy that is applied in an overreaching manner. There are specific examples, all of which I have experienced.

The nation’s stakeholder recipients handling federally-assisted housing and legally compliant “safe and decent” housing are not furthered when HUD:

- Rejects, through its Fair Housing arm, a PHAuthority’s efforts to redevelop a then-77-year old, obsolete public housing property claiming that the PHAuthority could not achieve compliance with Affirmatively Furthering Fair Housing regulatory compliance. HUD determined that as a pre-condition to departmental clearance for a Rental Assistance Demonstration (“RAD”) application, an unrelated, non-applicant City that HUD had no authority over had to first change its city code relating to its zoning and land use laws before HUD would permit the PHAuthority to use RAD for the redevelopment of new affordable LIHTC units serving the same extremely- and very-low income housing tenant community served by the existing public housing development. Why would HUD require a PHAuthority to first accomplish the legally impossible task of getting a local government to change its city code as a pre-condition to razing dilapidated and provably unhealthy obsolete public housing units and building new affordable units?
- Delays a CDBG-DR’s grantee’s allocation award to a subrecipient based upon a misreading of NEPA, thereby imperiling the development of new LIHTC-financed affordable housing units despite clear evidence that the subrecipient complied with all federal laws.

- Threatens to sanction an outstanding 40-year program participant and faith-based, non-profit-owner of elderly and disabled housing for “failing” Real Estate Assessment Center (“REAC”) scores, which HUD uses to determine quality of housing provided, despite clear evidence that part of the property in question had suffered a fire.
- Implements Housing Opportunities through Modernization Act (“HOTMA”) changes to the Housing Opportunities for People with AIDs (“HOPWA”) program in a manner that is sanctioning large cities *and* rural HIV-infected tenants who might otherwise become homeless and service-less.
- Contractually re-regulates Moving to Work program (“MTW”)-participating PHAuthorities in a manner that essentially reimposes laws and regulations that impedes the very relief MTW-participant PHAuthorities were supposed to have received.
- Threatens the federal funding of two major cities, in most cases without an affirmative federal statutory obligation, to comply with the provisions of the Fair Housing Act applicable to owners, and effectively use local and state funds to pay for HUD’s insistence that city-code and building requirements on future property owners that helps neither most tenants that are covered by the Fair Housing act in the absence of compulsory law or regulation.
- Suspends Management and Occupancy Reviews (“MORs”) conducted by project based contract administrators (“PBCAs”) placing PBCAs in the unworkable position of both being unable to deal with MOR issues and essentially needing to “catch up” on years of pent up operational shortcomings when MORs were finally reinstated by HUD years later.

These specific examples are offered to highlight broader issues facing HUD with respect to its mission shortcomings relating to the provision of “safe and decent” housing. Every example above is offered in an attempt to highlight the broader common experience of my colleagues who have experienced similar challenges.

One part of HUD’s policy prerogative can run the risk of undermining the greater mission of providing “safe and decent” affordable housing to Americans who qualify for and need that housing. Another risk to HUD and others is that there is a form of institutional redux at HUD that is severely impacting HUD’s capacity. In either case, HUD should take some affirmative steps. They are:

- Implement better technology.
- Hire staff and work to retain institutional memory. Talent retention was a crisis management challenge when I served at HUD and remains so.
- Provide technical capacity so that HUD program employees avoid making policy decisions that flatly contradict law and regulation.

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- I have a concern that there will come a time when a recipient of federal funds will challenge HUD, on a major Fair Housing compliance matter for instance, and win – which will both regrettably weaken Fair Housing enforcement and cause others to question legitimate Fair Housing compliance.
- As noted above, HUD must keep faith with all PHAuthorities and public housing agencies that seek to compete to become PBCAs.
- Implement desired policy without one HUD-department, for example, and again Office of Fair Housing and Equal Opportunity, effectively derailing desired housing outcomes in another HUD department, for example HUD’s Office of Recapitalization that runs RAD – and that fundamentally serve Congress’s “safe and decent” housing objective.
- Redirect a reaction-based regulatory scrutiny. Bad facts make for bad policy outcomes. HUD has myriad sanctioning tools yet moves toward the most rigid enforcement positions too precipitously. HUD would serve itself well by adopting more nuanced regulatory positions that contemplates a full spectrum of noncompliance tools.

As a further example of the risks of regulatory overreach and expense, HUD’s enforcement of other requirements in a manner with a tenuous foundation in federal or state law or regulation might cause local governments to revisit their participation in HUD programs. Two local governments, in my recent experience – have concluded their relationship with HUD, causing them to formally end some or all of their relationship with HUD programs because HUD’s compliance costs with respect to federally-assisted housing could not be feasibly met by those local governments.

I did not want to end this topic without adding a thought about a program I have always supported – MTW. MTW status has helped PHAuthorities reinvent themselves and become more effective developers and owners. MTW status or MTW-like authority should be made widely available beyond small PHAuthorities and named MTW public housing agencies.

HUD need not be the only place change starts. For example, MTW has been a tool of transformation for many PHAuthorities, yet while MTW has been expanded, it has simultaneously become more constraining. If more of the nation’s public housing agencies are allowed to use MTW, it would unquestionably improve tenant’s lives and create better public housing authority-service providers.



One version of federally-assisted housing that deserves its own distinct mention is the programs administered by HUD’s Office of Public and Indian Housing’s Office of Native American Programs (“ONAP”). Indian Country deserves a significant Congressional commitment. HUD’s obligation to provide “safe and decent” housing entirely includes all ONAP programs. Tribally Designated Housing Entities (“TDHEs”) are suffering through the same capacity issues that are impacting all PHAuthorities and HUD itself. Unlike PHAuthorities, TDHE are impacted by treaty obligations in addition to the Native American Housing and Self-Determination Act (“NAHASDA”), which is a critical legislative tool for

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federally recognized tribes and TDHEs. All federally recognized tribes deserve "safe and decent" affordable housing as well.

In closing, providing "safe and decent" requires hard work. I have no doubt that HUD has the people and capacity to undertake the effort in the most productive way. Some of the most talented people I have ever worked with (still) work at HUD. Please support them. Despite the difficult stories about talent drain that we hear from every federal department, including HUD, in my view they have earned that support.

Once again, thank you for the opportunity to submit my written testimony. As always, I stand ready to address any questions you may have.



Orlando J. Cabrera

cc: The Honorable Patrick McHenry, Ranking Member

**Testimony of Geraldine Collins
President, National Alliance of HUD Tenants**

**Before the House Financial Services Committee
Subcommittee on Housing, Community Development and Insurance**

**Hearing: Safe and Decent? Examining the Current State
of Residents' Health and Safety in HUD Housing
Wednesday, November 20, 2019**

Thank you, Chairman Clay, Ranking Member Stivers and members of the subcommittee for inviting me to testify on behalf of the National Alliance of HUD Tenants (NAHT) on the state of residents' health and safety in privately owned, HUD multifamily housing. Together, Shalonda Rivers, another witness testifying today, and I co-chair NAHT's Global Ministries/Millennia Task Force.

NAHT is the national tenants' union, representing the 1.7 million households in privately-owned, HUD multifamily housing. Since 1992, NAHT has been governed by an all-tenant, elected Board, and I have served as President since 2018. I am also the President of the Phelps House Tenants Association, where I live in Manhattan. I moved to Phelps House, a HUD subsidized building for senior and disabled tenants in 2004, after my husband passed away and I became disabled; I had moved to New York from South Carolina after college for a career in medicine and real estate.

I urge Congress to pass the Tenant Empowerment and REAC Reform legislation proposed by NAHT and introduced today as a discussion draft. I also urge Congress to enact the HUD Inspection Act of 2019, introduced by Reps. Al Lawson (FL-05), Alma Adams (NC-12), and Val Demings (FL-10). Together, these bills will give new tools to empower tenants to ensure our homes are safe.

Although most HUD and public housing developments provide safe, decent and affordable homes for millions of income families,¹ it has long been apparent to NAHT's members that HUD's Real Estate Assessment Center (REAC) systematically underestimates the extent of substandard housing. As I told REAC's former long-time Director at NAHT's Conference last June, REAC is a system that has failed.

The disconnect between high REAC scores and substandard housing came to head at several Global Ministries properties in 2015, when tenants led by Tracy Grant at Eureka Gardens in Jacksonville, Florida and other cities exposed deplorable, life-threatening conditions in the press and on Capitol Hill,

¹ According to HUD, the median REAC score in privately-owned developments was a respectable 85 in 2017 (REAC scores up to 100 points; 60 or below is a "fail"). A March 2019 GAO Report showed that of 27,486 multifamily properties inspected from 2013 through 2017, 1,760 (6%) failed at least one inspection, and 272 properties (1 percent of the total) failed two or more inspections. At the same time, fully 55% of HUD multifamily properties were found to have at least one serious health and safety violation in 2018.

The Preservation Database maintained by the National Low Income Housing Coalition has more recent data than that used in the GAO report. These data indicate that 4% of privately-owned, HUD multifamily housing units, and 3% of properties, have failed their REAC scores. Because of flaws in REAC's reporting system, NAHT believes these data understate the problem.

which REAC's inspectors had failed to detect. Recent coverage by NBC, ProPublica and other outlets have concluded that REAC is "pretty much a failure."²

HUD is finally recognizing that REAC needs to be modernized and has instituted the NSPIRE Demonstration in HUD Region III in response. But given the urgency, HUD's response is too little and too slow. Unfortunately, it took the death of two tenants in South Carolina from preventable carbon monoxide exposure and pressure from Congress to prompt HUD to finally address this life-threatening hazard.

Since REAC started in 1998, NAHT has proposed ways to engage residents of multifamily housing in the REAC inspection process.³ NAHT's vision is that tenants, through organized tenant associations, can help HUD in its oversight role. Organized tenant groups can marshal thousands of residents as unpaid volunteers – serving as the “eyes and ears” of HUD – to bring our knowledge of substandard building conditions to the attention of REAC inspectors and others at HUD.

Unfortunately, from the outset, REAC has rejected this vision and locked tenants out of the process. REAC inspectors are trained to not engage with residents in any way when they visit a property. HUD has viewed REAC inspectors as scientific, objective investigators who cannot meet with residents out of concern that doing so would “bias” their results. At the same time, management representatives are allowed to accompany inspectors, but not the people who live in these homes!

By preventing its inspectors from benefiting from the expertise of the people who live in the properties, REAC has systematically missed a primary source of information about property conditions. For example, if inspectors visit during the summer, how will they know that the heating system doesn't work in the winter, unless they talk to the residents?

We believe that HUD's failure to engage or respect residents in the oversight process is the principal reason why HUD and REAC have become increasingly out of touch with actual physical conditions across the country. As HUD has downsized staff and buildings have aged, REAC's outmoded scoring system has failed to detect the true condition of properties. In many cases, like Eureka Gardens, tenants watched and suffered in horror as their homes deteriorated and their family's health was harmed. All this time, residents knew what was going on, but HUD didn't want to hear our voices or work with us to right the wrongs in our communities.

HUD's aging buildings have exposed tenants to environmental health and safety hazards which REAC's inflexible scoring system does not measure. For example, until recently, REAC “scored” toxic

² See “Pretty Much a Failure”: HUD Inspections Pass Dangerous Apartments filled with Rats, Roaches, and Toxic Mold”, by Molly Parker, the Southern Illinoisan/Pro Publica, November 16, 2018
<https://www.propublica.org/article/hud-inspections-pass-dangerous-apartments-with-rats-roaches-toxic-mold>

Also, “Under Ben Carson, More Families Live in HUD Housing that Fails Health and Safety Inspections,” by Suzy Khimm et al, NBC News, November 14, 2018
<https://www.nbcnews.com/politics/white-house/under-ben-carson-more-families-live-hud-housing-fails-health-n935421>

³ In 2000, NAHT developed comprehensive, no-cost proposals to enlist tenants as partners with HUD in overseeing our homes, updated in 2016. For example, we proposed to provide tenants with the same Notice, Comment and Appeal rights as owners in REAC inspections, and urged HUD to make REAC scores and reports available to residents. NAHT's recommendations have been presented to REAC during its annual Conference in Washington, DC, and quarterly NAHT Board meetings with top HUD officials, starting in 2000. REAC has largely ignored these recommendations. However, NAHT has had periodic successes in obtaining enforcement of substandard housing conditions by organizing tenants in “Eyes and Ears” meetings with regional and national HUD Office of Housing officials, apart from REAC.

indoor air with only one point in its 100-point scoring system, despite the growing evidence of widespread toxic mold and indoor air across the country. Our children could be severely suffering from asthma due to toxic mold and the building could get a 99 score from REAC! The toxic mold epidemic is largely caused by emerging water leaks and poor ventilation in aging buildings, often built with concrete, high-rise construction techniques in the 1960's and 70's—like St. Edmonds (now Southland Village) in Chicago, which received a passing REAC score of 66c around the time these pictures were taken (attached slides).

There are many other problems with REAC's scores. REAC missed the growing epidemic of bedbugs for decades, not even "scoring" for this problem until quite recently. Tenant groups in NAHT's membership generally found relief only through local code enforcement agencies or suffered in unacceptable conditions. HUD intervention sometimes occurred, but only after heroic efforts by tenant groups in areas where tenants were organized.

NAHT has presented detailed recommendations for revision of REAC's scoring system, for many years. We recently forwarded these to REAC with our comments on the NSPIRE demonstration. We ask the Committee to encourage REAC to make these changes.

Because HUD has failed to act, NAHT's first proposed Tenant Empowerment legislation in 2010. Several provisions of this proposal were included in H.R. 4868, filed by then Housing Subcommittee Chair Maxine Waters (D-CA) and full Committee Chairman Barney Frank (D-MA).

The Tenant Empowerment bill before the Committee today is built on H.R. 4868, adding new sections on REAC reform. We ask Congress to:

1) Empower tenants to trigger HUD enforcement action by withholding the tenants' rent share in escrow when a property's REAC scores are at or below 60 and/or determinations of other serious violations have been made.

HUD Notice 2018-8, implementing Section 222 of the HUD Appropriations bill, allows HUD to implement one or more enforcement actions to make owners bring buildings up to code, including full or partial withholding of Section 8 subsidies. But too often, powerful owners at buildings like Forest Cove in Atlanta, which has a recent REAC score of 32c, are treated with kid gloves by HUD.

I have visited Forest Cove (show slides⁴). Forest Cove is one of the 43 Global Ministries properties where HUD engineered a takeover by Millennia Properties, after Congress forced HUD to act in the wake of the news coverage of Eureka Gardens. Although Millennia has been managing the property for two years, tenants have been exposed to deplorable, unlivable conditions, including rats, water leaks, toxic mold, exposed electrical wiring, and more. No one should have to live like this!

NAHT's Global Ministries/Millennia Task Force has established a direct dialogue with Millennia CEO Frank Sinito and top HUD multifamily housing officials. We presented these slides to Millennia's top management and to HUD last spring, pleading for emergency relocation for 17 families facing life threatening conditions until their units can be fixed. Although the REAC score here was lowered from 62 to 32c when tenants demanded a new REAC inspection, HUD has failed to make Millennia provide temporary relocation, and families continue to suffer in deplorable conditions.

⁴ See Forest Cove photos from March 2019, compiled by Richard Hunsinger, NAHT VISTA Volunteer with AFSC/Atlanta: <https://drive.google.com/file/d/1h8t8EWTJJPuJR4a3ZANXXrshcZVx8w54/view?usp=sharing>

This bill would also empower tenants to put their rent in escrow, thereby triggering HUD to withhold its larger portion of the rent (what HUD calls Section 8 abatement) to maximize pressure on the owner to bring housing up to safe and decent condition. If HUD won't move against entrenched, powerful owners, Congress should give tenants the power to start the enforcement process and make HUD do its job.

2) Allow tenants and cities to trigger a new REAC inspection. The bill would enable tenants or cities to petition HUD to re-inspect a property when REAC fails to detect hazardous conditions. For example, St. Edmonds (now Southland Village) in Chicago scored a passing 66c in 2017 (show slides), despite widespread water leaks, toxic mold, exposed asbestos, and windows that leak in the cold Chicago winters. Tenants struggled for years to get HUD to respond. It was only when tenants organized and brought in the media in 2018 that the local HUD office finally acted—but not until a maintenance worker was hospitalized in the Intensive Care Unit and almost died from exposure to toxic mold, while removing it from behind the wall in a child's bedroom. Giving tenants the power to trigger a new REAC inspection would improve HUD's capacity to identify and address substandard housing.

3) Give tenants and their associations the right to sue to enforce HUD contracts. When life-threatening conditions like those at Forest Cove or St. Edmonds persist, and owners and HUD fail to act, tenants should have the right to sue to enforce contracts between HUD and owners. We do not have legal standing to do that now, despite the fact that we live there! This bill would establish "Third Party Beneficiary" status for tenants and tenant organizations so we could seek judicial relief in the federal courts.

4) Give tenants Access to Information. Today, tenants are handicapped in our efforts to save and improve our housing, because we can't get key information such as the owner's Repair Plans, expenditures from Repair Reserve funds overseen by HUD, and the owner's operating budget (HUD Form 92410). Oftentimes, tenants can't find out who the actual owner is, if ownership is masked by "limited partnerships" that don't identify this key information. If tenants have access to this information at their property, they can meet with owners to share concerns and help HUD expose waste, fraud and abuse, such as whether the maintenance workers assigned to a property are actually working there.⁶

HUD housing is heavily subsidized by taxpayers, and by tenants' rents. Section 4 of the bill would allow tenants to find out how our money is being spent and to make sure we—and the taxpayers—are getting our money's worth.

5) Build tenant association capacity by making available at least \$10 million annually in Section 514 funding to local nonprofit tenant assistance organizations. Congress has made available up to \$10 million annually through Section 514 of the Multifamily Assisted Housing Reform and Affordability Act to provide for tenant capacity building and participation in HUD decisions. Section 514 is not a direct "appropriation," but a set-aside of the \$14 billion Project-Based Section 8 account which Congress regularly appropriates each year.

⁵ See St. Edmonds photos from 2018, compiled by VISTA Volunteers Devondrick Jeffers and Janet Wilson from Southside Tenants Organized for Power (STOP), Chicago: https://drive.google.com/open?id=1WB805w8r_Plw7J7FIVbeZdJC4fu1QwAn.

⁶ "Ghost" maintenance workers are a common scam. When able to get property budgets through the Freedom of Information Act, usually from state agencies, NAHT tenant groups such as the Fruit-Sever Tenants Association in Worcester, Massachusetts, have found owners assigning maintenance staff to their private market apartments or condos, while illegally charging their salaries to a HUD subsidy contract at the expense of tenants in the building.

Over the past 18 years, HUD could have made available \$180 million for Section 514 assistance to tenants. Instead, only \$12 million – just 6% of the total allowable amount – has been spent.⁷ Had these funds been available, tenants would now be far more organized, filling the void left by HUD as it has downsized staff and shut down field offices across the country. Our homes would be in far better condition today.

This bill would require HUD to spend *not less than* \$10 million annually, in contrast to the \$10 million *ceiling* today. NAHT has made recommendations to HUD on how best to ensure these funds are made available to qualified local nonprofits, either through VISTA Volunteer resources and/or through capacity-building grants.

Today, most HUD tenants nationwide remain unorganized and largely unaware of their rights. The history of the recently completed VISTA Affordable Housing Preservation Project, co-partnered by NAHT with Equal Justice Works, and previous Section 514 grant awards has demonstrated that small investments in local capacity-building can yield remarkable results in building legitimate tenant associations in HUD housing. In the long term, this is the best investment HUD can make to ensure that tenants are organized to be effective partners with HUD in oversight of the nation's housing stock.

6) Make Tenants Partners in REAC Inspections. The Tenant Empowerment legislation would require HUD and REAC to adopt simple, no-cost steps to involve tenants as partners in REAC inspections.

NAHT has advocated for many of these recommendations for more than 20 years. We updated them in 2016⁸ and also provided detailed comments on REAC's NSPIRE Demonstration. Both are attached to our testimony.

We are asking Congress to legislate these additional steps to empower tenants:

- Require REAC inspectors to meet with tenant associations, if any, upon request, prior to inspections;
- Add up to five apartments for inspection, upon request of the Tenants Association, if any;
- Allow a representative of the Tenant Association to accompany inspectors, subject to approval by the resident before entering individual apartments;
- Review work order requests during REAC site visits, to assess maintenance responsiveness;
- Allow tenants or cities to trigger REAC inspections, upon petition or request;
- Require REAC to access local City code agency reports, if readily accessible;
- End self-certification that life-threatening health and safety violations have been corrected and require HUD, REAC and/or PBCA to inspect for compliance; and

⁷ HUD has also awarded \$2.8 million from FY 2016 Section 514 funds to two organizations, but has not yet authorized its expenditure. HUD is planning to spend an additional \$3 million approved by Congress in FY 2019, and \$3 million more requested in FY 2020. When these funds are committed, HUD will still have spent only \$21 million over 18 years on HUD multifamily tenant participation.

⁸ In 2014, NAHT co-sponsored a HUD-funded VISTA Volunteer project in 20 cities. The VISTAs and tenants they organized quickly reported the high REAC score/substandard housing conditions in their cities. At their instigation, NAHT convened a Task Force in 2015, which updated NAHT's long-standing recommendations for REAC Reform. These were presented to Deputy Assistant Secretary Priya Jayachandran in January 2016 (attached to these comments). Since then, NAHT has discussed these with REAC and other HUD officials at plenary sessions during NAHT's June Conference in Washington, DC, and periodic NAHT Board meetings, most recently with Acting REAC Director David Vargas on October 2.

- Allow inspectors to trigger HUD-funded testing for suspected environmental hazards, such as mold, radon, asbestos or lead paint, and develop remedial plans where problems are confirmed.

7) Restore Tenant Surveys in REAC: Support the Lawson bill to strengthen HUD enforcement

NAHT supports Rep. Lawson's HUD Inspection Act of 2019 legislation, which would restore the tenant surveys dropped by REAC in the early 2000's for Multifamily Housing. The survey should be restored nationwide now. We should not have to wait two years for the NSPIRE Demonstration in Region III to be completed to restore Tenant Surveys, or to adopt the no-cost tenant participation provisions of the Tenant Empowerment bill.

Congress should also ensure that the survey is not done only electronically, but by mail as well, similar to the US Census. Many tenants, especially low-income elderly households, cannot afford access to computers and the internet. We are concerned that REAC may attempt to only use electronic survey methods due to cost.

The Lawson bill also strengthens HUD's enforcement tools when properties score at or below 60 on their REAC scores by requiring HUD to take one or more enforcement steps identified in Section 222 of the THUD Consolidated Appropriations Act. Section 222 had been watered down a few years ago, perhaps inadvertently, by making HUD enforcement optional, not mandatory. NAHT's tenant rent withholding provision would complement the HUD rent withholding option which the Lawson bill would strengthen, should HUD fail to act.

However, in restoring the previous strong language in this section, the Lawson bill leaves out earlier provisions requiring Notice and Comment rights for tenants on plans and correspondence between owners and HUD. We urge the Committee to restore this language as well, either by amending the Lawson bill, or adopting these changes in the stand-alone Tenant Empowerment bill.

8) Make HUD's enforcement framework in Section 222 permanent. We also urge the Committee to use this opportunity to make the "Schumer-Bond Amendment", which NAHT was instrumental in passing in 2006, permanent rather than subject to bi-ennial renewal in the THUD Appropriations bill. The Schumer Amendment is the ultimate source of the mandate in Section 222 for HUD to preserve at-risk substandard housing with Project-Based Section 8 contracts whenever possible. NAHT urges passage of the permanent authorization language proposed by the National Housing Law Project, currently in Section 7 of the Tenant Empowerment Discussion Draft.

In closing, tenants are the real experts about conditions in our developments. Because these are our homes, we have the most at stake and the most compelling motivation to ensure that they are decent, safe and sanitary. Please pass the Tenant Empowerment bill so we can partner with HUD to stem the disgraceful blight of substandard housing.

Thank you for the opportunity to present NAHT's views today and I look forward to your questions.

Attachments:

"Pretty Much a Failure," by Molly Parker, Pro Publica, 11/16/18

"Under Ben Carson, More Families Live in Housing that Fails", Suzy Khimm, NBC News, 11/14/18

Photos from Forest Cove Apartments in Atlanta, GA, 2019

Photos from St. Edmonds in Chicago, IL, 2018

NAHT comments on NSPIRE Demonstration, submitted to HUD, 10/21/19

NAHT recommendations on REAC Reform, presented to HUD, January 2016

Attachment: NAHT Comments to HUD on NSPIRE Demonstration

U. S. Department of Housing and Urban Development

Attn: Office of the General Counsel, Regulations Division,
451 7th Street SW, Room 10276,
Washington, DC 20410-0500
Submitted electronically through www.regulations.gov

October 21, 2019

Re: Docket No. FR-6160-N-01: "Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols"

The following comments are submitted on behalf of the National Alliance of HUD Tenants (NAHT) regarding the Department of Housing and Urban Development's (HUD) Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols (Docket No. FR-6160-N-01).

NAHT is the national tenants' union representing the 1.7 million households in privately-owned, HUD multifamily housing. Since 1992, NAHT has been the national voice for HUD assisted tenants, and is the only national tenant membership coalition in the US. Governed by an all tenant, elected Board, NAHT's voting membership consists of tenant associations that meet HUD standards for legitimate tenant organizations at 24 CFR Part 245, Subpart B, and associated areawide tenant assistance organizations in 17 states. Our mission is to preserve and improve HUD assisted housing through tenant empowerment and participation in decisions affecting our homes.

Since the inception of REAC, NAHT has proposed ways to engage residents of multifamily housing in the REAC inspection process. NAHT's perspective is that tenants, through organized tenant associations, can help HUD in its oversight role, by marshalling thousands of residents as unpaid volunteers—serving as the "Eyes and Ears" of HUD-- to bring their knowledge of substandard building conditions to the attention of REAC inspectors and others at HUD. NAHT's view is that tenants are the real experts about conditions in their developments, with the most compelling motivation to ensure that HUD's multi-billion dollar investment is best maintained.

The NSPIRE Demonstration offers an opportunity for HUD to finally institutionalize tenant participation in the REAC process, and to modernize and reform REAC's inspection protocols to improve building conditions in aging HUD properties for thousands of low income residents. We summarize specific recommendations for NSPIRE below.

Background: Tenants as the "Eyes and Ears" of HUD. Unfortunately, from the outset, REAC's philosophy has opposed NAHT's perspective. REAC inspectors are trained to not engage with residents in any way when they visit a property. HUD has viewed REAC inspectors as scientific, objective investigators who cannot meet with residents since that would presumably "bias" their results. But by preventing its inspectors from benefiting from the wisdom of the people who live in the properties, REAC has systematically missed a primary source of information about property conditions. For example, if inspectors visit during the summer, how will they know whether the heating system is faulty in the winter, unless they talk to the residents?

NAHT first proposed no-cost ways to institutionalize tenant participation in the REAC process in the late 1990's. For example, we proposed to provide tenants with the same Notice, Comment and Appeal rights as owners, and urged HUD to make REAC scores and reports available to residents. NAHT's recommendations were presented to REAC during its annual Conference in Washington, DC, and quarterly NAHT Board meetings with top HUD officials, starting in 2000. REAC mostly ignored these

recommendations.⁹ However, NAHT has had periodic successes in obtaining enforcement of substandard housing conditions by organizing tenants in “Eyes and Ears” meetings with regional and national HUD Office of Housing officials, apart from REAC.

Aging housing stock exposes gap in REAC scores. Meanwhile, over the years, HUD’s aging housing stock exposed tenants to increasing environmental health and safety hazards which REAC’s inflexible scoring system did not detect. For example, until recently, REAC “scored” toxic indoor air with only one point in its 100 point scoring system, despite the growing evidence of widespread toxic mold and indoor air across the country. This predictable problem was largely caused by emerging water leaks and poor ventilation in aging housing stock, often built with modernist concrete, high-rise construction techniques in the 1960s and 70’s; tenants in other countries such as the UK were plagued by similar problems. Other examples can be cited; REAC missed the growing epidemic of bedbugs for decades, not even “scoring” for this problem until quite recently. Tenant groups in NAHT’s membership generally found relief only through local code enforcement agencies, or suffered in unacceptable conditions. HUD intervention did occur, but only after heroic efforts by tenant groups in areas where tenants were organized.

Finally, the disconnect between high REAC scores and the reality of substandard housing came to head at several Global Ministries properties in 2015, when tenants exposed deplorable conditions in the press, with Congressional support, in Florida, Georgia, and Tennessee. Press coverage by NBC, ProPublica and other outlets have continued to expose these issues throughout 2018 and 2019, keeping a spotlight on the problem. HUD is to be commended for recognizing that REAC needed to be modernized and instituting NSPIRE in response.

NAHT’s Recommendations for REAC Reform: Suggestions for NSPIRE. At the same time, NAHT co-sponsored a HUD-funded VISTA Volunteer project in 20 cities; VISTAs quickly reported the high REAC score/substandard housing conditions in their cities. At their instigation, NAHT convened a Task Force in 2015, which revised and updated NAHT’s long-standing recommendations for REAC Reform. These were presented to Deputy Assistant Secretary Priya Jayachandran in January 2016 (attached to these comments). Since then, NAHT has discussed these with REAC and other HUD officials at plenary sessions during NAHT’s June Conference in Washington, DC, and periodic NAHT Board meetings.

Building on these recommendations, ***we offer the following suggestions for the NSPIRE Demonstration:***

1) ***Notify tenants about REAC inspections, reports and appeals, and NSPIRE.*** At the June 10, 2019 NAHT Conference, tenants brought to HUD’s attention the reality that REAC scores were rarely posted at developments and REAC reports rarely made available to tenants upon request, despite HUD requirements. In response, HUD’s Office of Asset Management and Portfolio Oversight (OAMPO) issued a letter to owners and HUD staff on July 8, 2019, reminding owners of these requirements, and further requiring owners to post Notices of how tenants could appeal unrealistic REAC scores. The memo also encourages tenants to submit photo or video documentation of substandard conditions and/or failure of owner self-certifications to reflect compliance with REAC findings.

⁹ HUD did require owners to make inspection reports available to tenants in revisions proposed by NAHT to the Management Agent Handbook (4381.5, REV -2) in 1994. But at NAHT’s annual conference in Washington, DC, it has been rare to find a tenant association that has ever seen a posted REAC score, let alone been provided access to REAC Reports; HUD has never sanctioned owners for their failure to comply with Handbook requirements, despite this overwhelming evidence of non-compliance.

We encourage NSPIRE to implement this Memorandum at the 4,200 properties selected for the NSPIRE Demonstration. REAC or HUD representatives should check to ensure that the required Notices to tenants are posted, and ask residents whether they were aware of REAC scores and reports.

NSPIRE could also build on the July 8 Memorandum, by formally establishing the same Notice, Comment and Appeal rights for tenants, as are afforded the owners and their agents in the REAC inspection process—a long-standing recommendation of NAHT since the 1990's.

Similarly, NSPIRE should ensure that a Notice is provided to residents of the NSPIRE Demonstration itself, not just the specific REAC property inspections. NSPIRE should encourage residents to get involved in the process, as partners with HUD, in particular to ensure that owner self-certification is accurate.

2) *Restore Tenant Survey.* REAC's initial protocols required a Tenant Survey, by mail, of a sample of REAC-inspected properties. This was dropped in the early 2000's, primarily due to cost.

NAHT has long recommended restoration of the Survey. At the June 10, 2019 NAHT Conference, REAC Director DJ LaVoy indicated that REAC would take this important step. However, he suggested that it would be an on-line, not a paper, survey. Many tenants, particularly older residents who cannot afford or easily access the internet, will find an all electronic survey burdensome. We recommend NSPIRE to experiment with different alternatives, including all-paper and mixed paper and electronic submission forms, as the US Census has operated.

We also urge HUD to update its Survey, asking in particular questions about widespread, modern environmental problems that were less common in the 1990's, such as water leaks, mold, environmental hazards, and bedbugs. The Survey should also include questions about management performance and treatment of tenants regarding their rights, including the Right to Organize. NAHT can offer to convene a Task Force of resident leaders, organizers and legal service advocates to review HUD's draft Survey proposals and offer suggestions, as we did in the 1990's.

3) *Allow REAC inspection upon request of 25% of tenants, and/or City.* NSPIRE should also offer tenants the opportunity to trigger a REAC inspection upon request of 25% of residents and/or the City in which the property is located. We do not believe this would occur frequently or in a burdensome manner. But it would give tenants and the City a voice in bringing to HUD's attention problems that may have been missed in the once in two year inspections proposed by NSPIRE.

4) *Promote Tenant Participation in REAC inspections.* NAHT has proposed several simple, no-cost recommendations to enlist legitimate tenant associations as defined by HUD regulations at 24 CFR Part 245, Subpart B, in the REAC process. We encourage NSPIRE to incorporate these proposals in the 4,200 participating properties. These include:

- Requiring a meeting between the REAC inspector and any legitimate tenant association, where they exist, prior to starting an inspection;
- Allowing a representative of any legitimate tenant association to accompany inspectors upon request of the association, not to enter individual apartments unless invited by the tenant;
- Adding up to five units to REAC's random selection, if requested by a legitimate tenants association.

NAHT has been advocated for these simple, no-cost steps to institutionalize tenant participation in REAC for more than 20 years. We believe that HUD's failure to act on these suggestions and REAC's institutionalization of an elitist, misguided "expert" philosophy in its protocols (by for example forbidding inspectors to talk with residents!), has been one of the principal reasons why REAC has progressively failed in its mission to detect substandard conditions over the years. NSPIRE offers a welcome opportunity to change this course and for HUD to embrace residents as allies, not obstacles, to successful inspection outcomes.

Because most tenants are not organized into legitimate tenant associations or organizing committees recognized by 24 CFR Part 245, in practice we do not believe this will prove burdensome to REAC. However, HUD should encourage the formation of such associations (see below), because they can be invaluable sources of information and allies with REAC as it conducts its independent inspections.

5) ***Review work order reports during REAC site visit.*** NAHT also has recommended that REAC inspectors access, either electronically or by site inspection, the Summary Work Order Reports that many modern management companies maintain, that record and date tenants requests for repairs, identify when repairs were conducted, and note tenant satisfaction with the results. If conducted prior to a site inspection, this review would provide REAC with a quick overview of how many repairs are reported, how long it takes to complete them, and tenant satisfaction. While not perfect—these reports don't indicate whether tenants were coerced into "signing off" on repairs, a commonplace problem—it would at least provide some indication of repair performance at the property, and indicate any problems (such as water leaks, mold) that might suggest bigger problems.

Consulting with tenant association representatives would also provide a "reality check" and provide additional information to be gleaned from these data.

6) ***Access local code inspection reports, where available electronically.*** NAHT has also recommended that REAC inspectors access local code reports in cities, such as New York, where city code reports are available on-line. REAC inspectors could upload property reports for a particular building on site, using their hand-held computers, to see what City inspectors have found and get a sense what the problems are in the building, before commencing their inspection. Like consultations with tenant associations, REAC should not consider this a form of "bias" in their "scientific" investigations, but a welcome source of information to look out for when they begin their inspections. REAC inspectors would continue to exercise their own judgment, of course, about whether these problems are real.

7) ***Revise and modernize REAC scoring system.*** NAHT is pleased that NSPIRE has taken an important step toward updating the antiquated REAC scoring system, which has systematically underreported substandard conditions in people's apartments for decades. Increasing the weight given to "unit" scores vs. common areas and grounds is an important step. In addition, NAHT urges NSPIRE to embrace additional, specific changes recommended by NAHT's Task Force, in the attached comments.

8) ***Adopt a second stage environmental testing protocol.*** We urge NSPIRE to implement NAHT's recommendation to provide for environmental testing of suspected hazards, triggered by a REAC inspectors site visit. Many common toxins and environmental hazards—such as toxic mold, radon, lead paint, friable asbestos, or bedbugs—cannot readily be identified by even the best trained REAC inspectors. Where inspectors have reasonable cause to suspect that an environmental hazard might exist—through their own observations, reports by tenants or maintenance staff, or city agencies—we propose that they include this in their reports, identifying the need for professional testing to ascertain whether environmental hazards are present. NSPIRE should retain, in the Region III HUD office, a list of professional testing

companies, solicited through HUD's procurement process, who would be on retainer to investigate suspected hazards, upon recommendation of REAC inspectors.

If testing reveals hazardous conditions, NSPIRE should incorporate a "second stage" REAC consultation between owners, management, tenant association representatives (if any) and the HUD Field Office, draw up a remedial plan to address the problems. In the Multifamily field, this could also involve the Office of Recapitalization, which has a number of financial tools and incentives that could be made available to address these concerns. The Office of Housing protocols for substandard housing could apply to these situations.

Since these conditions would not be present in all, or most properties, and triggering requests would (hopefully) be rare, this should not be an undue cost burden to the NSPIRE Demonstration. NAHT would support an allocation of funding for this purpose.

9) Build tenant association capacity by making available \$10 m annually in Section 514 funding to local nonprofit tenant assistance organizations. Congress has made available up to \$10 million annually through Section 514 of MAHRAA, to provide for tenant capacity building and participation in HUD decisions. At the moment, the Office of Recap has \$5.8 million available, and will soon have \$3 million more, from this source.

NAHT has made recommendations to HUD on how best to ensure these funds are made available to qualified local nonprofits, either through VISTA Volunteer resources and/or through capacity-building grants. At present, NAHT is not aware of active, qualified groups in Region III. If HUD can work with NAHT, we can collaborate to identify, recruit and train such groups during the NSPIRE Demonstration. We ask that NSPIRE support these NAHT recommendations, and work with NAHT and Recap to make these funds available.

The history of the recently completed VAHPP VISTA project and previous Section 514 grant awards has demonstrated that small investments in local capacity-building can yield remarkable results in building legitimate tenant associations in HUD housing. In the long term, this is the best investment HUD can make to ensure that tenants are organized to be effective partners with HUD in oversight of the nation's housing stock.

Thank you for your consideration of these views. Please contact Michael Kane, NAHT Executive Director, at michaelkane@saveourhomes.org or 617-522-4523 or 617-233-1885 for more information.

Sincerely,
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NAHT Recommendations for HUD's REAC Inspection Process

Submitted to:

Donald J. Lavoy
Deputy Assistant Secretary,
Real Estate Assessment Center
US Department of HUD

Priya Jayachandran
Deputy Assistant Secretary
for Multifamily Housing
US Department of HUD

January 21, 2016

NAHT REAC Task Force:

Geraldine Collins, Secretary, NAHT; Co-Chair, REAC Task Force
Edgar P. Lucas, President, NAHT
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Justin Chang, VISTA Organizer, Texas Tenants Union, Dallas, TX
Sherise Brown, VISTA Organizer, American Friends Service Committee, Atlanta, GA
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Sarah Perry, VISTA Organizer, Metropolitan Tenants Organization, Chicago
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Eleanor Walden, Redwood Gardens Tenants Association, Berkeley, CA
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Avram Gur Arye, Redwood Gardens Tenants Association, Berkeley, CA

NAHT Recommendations for REAC Reform

Adopted by NAHT Board January 10, 2016

Provide for Tenant Participation in REAC Inspections

- Provide Access to Information, Notice, Comment and Appeal rights for tenants and their representatives, parallel to notice, comment and appeal rights given to owners
- Post notice of the inspections with information about the process, whom to contact, and appeals to HUD, before and after REAC inspections
- Ensure that the REAC Score is posted and that the REAC Report and related correspondence are available for inspection by tenants and their representatives
- Allow legitimate Tenants' Associations to trigger a REAC inspection, upon request
- Allow tenants and tenants' Associations to recommend up to five additional apartments to be added to units selected for inspection by REAC
- Allow Tenants' Association representatives to accompany inspectors, upon the Association's request, to include questions and comments (but not to enter individual apartments without the invitation and consent of the occupying tenant)
- Do not allow management staff to enter units being inspected by REAC inspectors during inspection
- Require REAC to meet with legitimate tenant groups and regional organizing groups as part of inspections, upon request
- Restore Resident Survey prior to a REAC inspection, asking tenants to rate the recertification process, management performance and condition of apartments. REAC inspectors could use this survey to assist in the selection of apartments and investigation of physical and management issues

Strengthen REAC Inspection Process

- End self-certification that "c" citations have been corrected; require HUD, REAC and/or PBCA to inspect for compliance
- Require REAC to consult with City code agencies, review records, if any
- Require REAC to review work order records in management office, inspect for response time, tenant satisfaction
- Require REAC to compile/review a list of units selected for inspection but not visited, especially if due to management objection (no keys, bedbugs, etc)

- Impose Civil Monetary Penalties for owner/agent failure to comply with posting requirements or failure to address REAC deficiencies

Revise REAC Scoring System to Better Account for Common Deficiencies

- Mold
 - Increase Criticality and Severity for Mold/Mildew across all areas, but allot an even higher Criticality and Severity for Mold/Mildew in Dwelling Units, and such Common Areas as the Day Care and Community Room & Spaces
 - Increase Nominal Item Weight for Mold/Mildew
 - Separate Mold/Mildew from Water Stains/ Water Damage
- Dwelling Units
 - Bathroom
 - Add 'Ventilation – Clogged'
 - Add 'Mold/Mildew' and 'Water Stains/Water Damage'
 - Hot Water Heater
 - Add 'Inadequate/Insufficient Supply'
 - Kitchen
 - Add 'Mold/Mildew' and 'Water Stains/Water Damage'
 - HVAC System
 - Add 'Inadequate Heat Supply'
- Building Systems
 - Add 'HVAC – Inoperable/Inadequate Heat Supply'
- All Areas
 - Add 'Presence of Asbestos/Radon'
 - Add 'Walls - Presence of Lead Based Paint'
 - Increase Criticality for 'Mice/Vermin'
 - Increase Criticality of 'Outlets/Switches/Cover Plates – Missing/Broken'
 - Increase Criticality of 'HVAC - Convention/Radiant Heat System Covers Missing/Damaged'
 - Health & Safety – change 'Infestation - Rats/Mice/Vermin' to 'Infestation – Rats/Mice'
 - Health & Safety – Add 'Infestation – Bedbugs'
 - Health & Safety – Add 'Infestation – Roaches'
 - Health & Safety – change 'Infestation – Insects' to 'Infestation – Insects/Vermin'
- Broaden the policy that points will be deducted only for one deficiency of the same kind within a sub-area to include and account for all deficiencies present.
- Re-adjust or remove the Point Loss Caps to allow for accurate deductions for deficiencies

**Revise REAC Protocol to Allow for Testing
and Remediation of Environmental Hazards**

- Require REAC inspectors to identify potential environmental hazards through observations by inspectors, meetings with tenants or management staff, complaints filed by tenants, inspections or reports by other government agencies, tenant surveys or other sources
- HUD to retain, in each Regional Office, professional testing firms to provide on call testing of air quality, mold, asbestos, bedbugs, radon, lead based paint and similar hazards
- Where inspectors identify a potential hazard, HUD or owner funded consultants to be brought in to test, measure, and evaluate the potential hazard and develop a remediation plan, in consultation with any tenants association or their representatives
- HUD's Contract Administrator and/or regional Office of Housing to monitor and implement the remediation plan
- Revise REAC and Contract Administrator scoring systems to better take into account environmental hazards confirmed through testing or observation (i.e., a two stage scoring system)

Testimony of Shalonda Rivers

**President, Cordoba Courts Tenants Association,
Board of Directors, National Low Income Housing Coalition,
before the House Financial Services Committee
Subcommittee on Housing, Community Development and Insurance
Hearing: "Safe and Decent? Examining the Current State of Residents' Health
and Safety in HUD Housing"
Wednesday, November 20, 2019**

Chairman Clay, Ranking Member Stivers, and members of the subcommittee, thank you for the invitation to testify today. I currently serve as President of the Cordoba Courts Tenants Association in Opa Locka, Florida and on the board of directors for the National Low Income Housing Coalition. My tenant association is a member of National Association of HUD Tenants (NAHT) and I co-chair NAHT's Global Ministries/Millennia Task Force. I am also a member of the Nation Association for the Advancement of Colored People (NAACP) and work closely with People United to Lead the Struggle for Equality (P.U.L.S.E), a local civil rights organization.

The National Low Income Housing Coalition is solely dedicated to ensuring that the lowest income seniors, people with disabilities, families with young children and others in our country have safe, accessible and affordable homes. NLIHC does not represent any sector of the housing field; rather, it works only on behalf of and with low-income people who need safe, accessible and affordable homes. NLIHC is entirely funded by private donations.

NAHT the national tenants union representing tenants in privately-owned, HUD assisted multifamily housing. NAHT exists to preserve and improve affordable housing, protect tenants' rights, develop tenant empowerment, promote resident control and ownership, improve the quality of life in HUD-assisted housing and to make HUD accountable to its constituents, HUD tenants.

In 2001, I moved to 22nd Avenue Apartments, now known as Cordoba Courts, a HUD Project-Based Rental Assistance (PBRA) property owned at the time by the Miami Property Group. The property was sold to Millennia in 2016.

Residents of Cordoba Courts started to organize in 2013 when we started noticing problems with our homes. My neighbors and I had similar complaints about deplorable living conditions and poor management. We have been forced to live in homes with rats, termites, peeling paint, major water leaks and toxic mold, improper security, and plumbing issues that have resulted in raw sewage backing up into our apartments. Some of these issues are documented in the photos that we submitted to the Committee. We felt within ourselves, this is not right!

We've been fighting to save our homes and improve living conditions ever since, but many of the residents are still living in terrible and unsafe conditions. At one point,

Millennia management moved me and several other tenants to a motel while they addressed life-threatening conditions in our apartments. What was supposed to be a temporary move, was stretched out to be more than a year! I just moved back home, last month of October 2019.

As you can see from these recent photos, conditions are still deplorable! The health and safety of tenants are at risk. You can see raw sewage from a neighbors' apartment, rainwater pouring from the ceiling in my apartment, and rat holes that have not been fixed—and these photos were taken AFTER I moved back in, when the apartments were supposedly have been renovated and/or fixed.

In 2013, we started a Tenants Association with help from Greater Legal Services of Miami. Prior to creating the Tenant Association, we reached out to the management team time after time with no results. Most of the time, management would respond to our complaints by lying to HUD and denying everything. So, we took photos and videos to document the conditions of our homes as much as we could.

Greater Legal Services of Miami advised us of our rights of rent withholding under Florida Law. On different occasions, several residents withheld the "tenants' share" of rent, which is usually a small fraction of what the owner receives under its PBRA Section 8 contract. This strategy was effective in an extremely small way, but at the end of the day, repairs were never done properly. For example, management would send non-certified maintenance workers rather than certified, insured professionals to repair water leaks and other substandard conditions.

For many years, the roof leaked. Eventually, several residents started discovering toxic mold in our homes. Residents' apartments were getting damaged. In addition, the A/C was installed improperly, resulting in holes allowing rodents and moisture to get into our homes. We sent a letter in 2015 to then HUD Secretary Julian Castro, alerting his office of the conditions in our homes; in response, HUD's Field Office Director Jose Clintron (his staff) said it is my decision if I want to live in an unsafe or poisonous environment—it was sarcastic and insulting (letters attached). That's when we realized we needed to come up with a different strategy.

After HUD refused to test for toxic mold, several residents, including myself, paid \$300 out of our own pockets for a certified professional mold test. The tests proved several families were exposed to serious health risks. When we brought in local government, we finally got some results. The City of Opa Locka became more involved as we became organized. We did not get 100% of what we wanted, but we did get some type of satisfaction.

In 2016, Millennia bought the building with Low Income Housing Tax Credits. We were told that Millennia would fix everything, but that turned out to be false promises. After two years, we realized that nothing was getting fixed, so we stepped up our organizing. We brought in the NAACP, PULSE (a local civil rights organization that started after the McDuffie Riots in Miami Dade County), and city officials and others. In

2018, we joined NAHT and got access to HUD Headquarters staff and other Millennia tenants in other cities. We did door-to-door surveys, but management was non-responsive. They tried to pressure me to stop contacting and emailing HUD and others. Management harassed me and other residents who participated in organizing.

They filed a retaliation eviction against my family, damaging my credit score and my adult son's credit score. During the hotel stay, Millennia also filed evictions against the other hotel residents who struggled to pay rent due to this major hardship of residing in a hotel 15 miles away from our homes. They have violated tenants' rights and violated the tenants' association rights.

Eventually, in August 2018, after NAHT organized calls with HUD headquarters and Frank Sinito, Millennia's Chief Executive Office – combined with pressure from the city code agency – Millennia agreed to do emergency repairs to address serious health and safety issues. Mr. Sinito even visited my apartment, and he promised I could move back into my apartment once repairs were made.

We were moved out to a hotel while emergency building conditions, such as toxic mold and broken windows, would be fixed. They refused to replace the leaky windows, even though the local City Building Department issued a direct order to replace all the windows throughout my apartment.

They tried to move me into another apartment, not back to my own apartment that I paid rent for the entire year while living in the hotel. All of the other families from the hotels were forced to move back into other apartment units that they did not want. Eventually, with the assistance of Greater Legal Services of Miami, they got me back into my apartment. This is an example of Millennia retaliation and harassment against me for standing up for my rights and my neighbors.

In addition, in another example of retaliation, Millennia abruptly stopped paying for the hotel, forcing low-income residents to pay out-of-pocket for two weeks of hotel fees or face possible homelessness. One family – including a son with a disability – is still living in the hotel, struggling to cover the fees. Management claims their displacement is due to legal issues, but this is wrong. Families were displaced because of the failures of management.

We tried going to HUD and its Performance Based Contract Administrator, North Tampa Housing Authority, for many years. They just give us the run-around. One time, HUD directed us to North Tampa Housing Authority about mold. I was referred to a 1-800 call center in Ohio, where I was told that the proper way to treat toxic mold is to use Lysol and Bleach. I politely informed her that mold is caused by water leaks and poor ventilation and that Florida state law requires owners to address the root causes. We went back to HUD, but speaking with the agency or the North Tampa Housing Authority was simply a waste of our time.

When we did get a response from the local HUD office or North Tampa Housing Authority, they would just repeat what Millennia management had told them. Why would they listen to the managers, rather than to the tenants who actually live here? That's why we had to do it ourselves—getting our own mold tests, bringing in the city and Legal Services of Greater Miami, and going to the top at HUD, not just the local office.

The bottom line is, HUD has not done what it could have to make our homes safe. Recently, HUD rounded off a 59.54 REAC score to 60, which they have used as an excuse to not sanction the owner as is required by HUD Notice 2018-8. According to the March 2019 Government Accounting Office (GAO) report, HUD is legally required to take one of several steps under the Notice if the score is 60, not just below 60, such as withholding HUD's Section 8 payment until the owner addresses life threatening health and safety issues. Congress needs to make HUD obey its own rules!

Today, as you can see from these pictures, our homes are still not habitable. We clearly need a comprehensive health and safety plan. There is none that we are aware of, despite all the money HUD pays to Millennia. HUD has shown it will not or can not act on its own.

We need Congress to pass legislation to empower residents to have a say in our homes and to make sure HUD assisted property owners and HUD treat us with some respect.

If the Tenant Empowerment legislation proposed by NAHT is passed, it will allow tenants to withhold the tenants' portion of the rent for units found to be substandard by HUD, triggering mandatory withholding of HUD's share of the rent. Tenant funds would be put in escrow or be used to cover the cost of repairs. This will increase pressure on property owners and bring the owners and HUD to the table. If HUD won't act on its own when buildings are in substandard condition, Congress should give residents the tools to make them do it!

If HUD's REAC score doesn't reflect actual conditions, this legislation would allow residents to trigger a new inspection with a tenant petition.

If HUD won't take action to enforce its own contracts with owners, the bill would give residents the legal standing to sue to enforce these contracts in federal court.

The bill would give tenants access to critically important information about our homes. At Cordoba Courts, we want access to the owner's Repair Plan, how reserve funds are spent, and the operating budget, so we can see where our—and taxpayer—money is going. That would really help us make sure money is properly spent.

Instead of low-income tenants paying \$300 to \$500 for mold inspections, the bill would allow HUD to commission testing for environmental hazards, such as mold, lead paint, or asbestos and force landlords to come up with a real solution.

By making tenants partners with REAC inspectors, the bill would enable us to point out problems and work with HUD on solutions.

The HUD Inspection Act of 2019, introduced by Reps. Al Lawson (FL-05), Alma Adams (NC-12), and Val Demings (FL-10), would also restore tenant surveys and mandate HUD enforcement in buildings, like Cordoba Courts, where REAC scores are 60 or below.

Together, these bills would give tenants the power to make owners and HUD do their jobs and provide residents with the safe, decent and affordable housing that we deserve. We ask you to pass these bills now!

Thank you for the opportunity to testify today and I look forward to your questions.



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 500
Miami, FL 33131-3042

May 28, 2015

Shalonda Rivers
13875 NW 22nd Avenue
Apt #116
Opa Locka, FL 33054

Dear Ms. Rivers:

On behalf of Secretary Julian Castro, thank you for your email dated May 12, 2015, in which you expressed concerns regarding mold in six apartment units. You submitted six pictures of various apartments in your complex, 22nd Avenue Apartments, and one picture of a unit at 183rd Street Apartments. Although you sent six pictures, you only identified five units; you did not specify the unit for the picture of the front door. You stated, to your knowledge, repairs had been made to four of the units but you do not feel they were repaired correctly. You further stated the mold comes back in a few months and some residents have gotten very sick from the mold.

You asked if HUD could or would send in a professional testing company to test for mold. I regret to inform you that The Department of Housing and Urban Development does not do this because the properties are not owned by the Department. However, in response to your concern Sara Warren, a Senior Project Manager from the Miami Multifamily Housing Division contacted Charter Realty Group, the management company for the two apartment complexes, and spoke to the Regional Manager, Paulette Gopaul. Ms. Warren provided Ms. Gopaul the pictures you sent and asked her if she was aware of the mold issues you referenced in your message.

Ms. Gopaul responded indicating they have no record of ever receiving any complaints of mold in any of the units listed in your message. Maintenance personnel checked units 120, 136 and 137 on May 27, 2015 and found no signs of mold and/or mildew. She stated they were in unit 116 on May 26th and there were no signs of mold and/or mildew in that unit either. Ms. Gopaul stated she has been in unit 139 at 183rd Street Apartments during the last few weeks and did not observe any mold/mildew. She further stated they have no outstanding work orders from residents with mold, or mildew issues.

Based on the above, there does not appear to be any mold/mildew issues at 22nd Avenue, or 183rd Street Apartments at the present time. I recommend if you have mold/mildew or any other issues with your unit you immediately contact Charter Realty Group for assistance, and likewise, if other residents have concerns it is their responsibility to contact the management company regarding their concerns.


HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.

www.hud.gov

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Thank you for your interest in the Department's programs and policies.

Sincerely,

for 
José Cintrón
Field Office Director



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 500
Miami, FL 33131-3042

July 16, 2015

Shalonda Rivers
13875 NW 22nd Avenue
Apt #116
Opa Locka, FL 33054

Dear Ms. Rivers:

Thank you for your correspondence to our office dated June 3, 2015 in response to our letter to you on behalf of Secretary Julian Castro, who you emailed May 12, 2015, expressing concerns regarding mold in six (6) apartment units at 22nd Avenue and 183rd Street Apartments. We provided what we felt was an accurate reply to the allegations you made based on management's explanation of actions taken to eradicate any mold/mildew issues. It appears you did not agree with that response. However, we feel the actions and response of management are acceptable and are closing this file.

I would like to re-emphasize the requirement for all tenants to notify management immediately of any repairs needed in their units or any concerns they may have. Each tenant must notify management directly if they require maintenance. It is not your responsibility nor is it an acceptable practice for you to contact management or HUD on their behalf. You should not be involved in their business unless you are a member of a recognized, approved Tenant/Resident Organization and your assistance is requested.

In response to your questions if you have the right to know if you are living in an unsafe and poisonous environment as well as is it your decision if you want to live in an unsafe/poisonous environment, of course the answer is yes. Below are "Resident Rights" involving apartment living.

- The right to live in decent, safe, and sanitary housing.
- The right to have repairs performed in a timely manner, upon request, and to have a quality maintenance program run by management.
- The right to be given reasonable notice, in writing, of any non-emergency inspection or other entry into your apartment.

Thank you for your interest in the Department's programs and policies. I want to inform you we will no longer respond to your complaints about owner/management on behalf of other tenants; they must contact management directly if they require maintenance on their units.

Sincerely,

José Cintrón
Field Office Director

HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.

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Slum Conditions at Cordoba Courts in Opa-locka

 [miaminewtimes.com/news/slum-conditions-at-cordoba-courts-in-opa-locka-10698557](https://miami.newtimes.com/news/slum-conditions-at-cordoba-courts-in-opa-locka-10698557)

Molly Minta | September 5, 2018 |
8:00am

September 5,
2018



Shalonda Rivers crusades for better living conditions.

Photo by Michael Campina

On a Saturday morning in 2013, Shalonda Rivers woke up early, ate a breakfast of microwaved oatmeal, and put a mop to her linoleum floor. It was the first step in her weekend cleaning routine, an ongoing battle against grime, pests, and mold that began when she moved into the two-bedroom, one-bathroom apartment in Opa-locka's Cordoba Courts apartments in 2001.

The single mother of four's walls were decorated with photographs of her two small daughters jumping into a swimming pool, crayon drawings of rainbow flowers, and a tabby cat cut from construction paper. A poem written by her youngest, Joanna, titled "Martin Luther King!" was taped above her computer. "*Dr. Martin Luther King/A man who had a dream,*" the poem reads. "*D-R-E-A-M.*"

As Rivers set to work, humming along to a Jermaine Dolly gospel song on her TV, she moved into the hallway, next to the relic of a gas heater that was set into her wall. Suddenly, the tall 41-year-old, who keeps her reddish-brown hair pulled back, saw something out of the corner of her eye. She looked more closely at the heater, gasped, and chucked her mop to the floor. Wriggling their way out of the vertical vents, dropping to the floor, were "thousands of maggots," Rivers remembers.

"I was like, *What in the world?*" she says. "We're plagued."

Hysterical, Rivers dialed the emergency hotline number property management had given tenants. But because it was Saturday, no one was around to answer her calls. To stop the flow of the maggots, she asked one of her sons to rip up old newspapers so she could stuff them into the vents. But the tiny, worm-like creatures found their way around the newsprint and continued to drip onto her floor.

At church the next morning, Rivers prayed to forget the sight. *Lord, give me strength*, she thought. That Monday, she left the apartment with her children at 7:30 a.m. to drop them off at school. Thirty minutes later, she returned home and stormed into the management office, right across the sidewalk from her front door. She demanded someone come to her apartment immediately to stem the tide of larvae.

Soon a maintenance worker removed the heater, and the emergency ended, at least temporarily. "It was more than thousands of maggots," Rivers recalls. "You have to raise Cain and sand for them to make a move."

Rivers had experienced problems for years at Cordoba Courts, the tan-painted subsidized housing complex off NW 22nd Avenue, just north of Opa-locka Boulevard. In 2008, she discovered mold in her unit. A few years later came water leaks that sounded like rain. "Living in low income," Rivers says, she didn't expect much. But she took her four kids — James, now 21; Ja-Shon, 18; Precious, 11; and Joanna, 5 — to church every Sunday morning and to Bible study every Wednesday evening. She believed that children of God deserve to live with dignity.

So a few weeks after the maggot onslaught, she posted a notice on every resident's door calling a meeting to form a tenants' association. Nearly half the complex met her under the gazebo in the middle of Cordoba's grassy courtyard, she recalls. They shared complaints about rats, roaches, mold, and water leaks and then elected Rivers association president. She vowed to advocate for better conditions. "A lot of people in life, they tend to give in easily," she says. "I consider myself more of a fighter."

As pressure for change grew, Cordoba was sold in 2016 to Millennia Housing Management, a real-estate company based in Cleveland that owns and operates thousands of units across the nation. The cost: \$11 million. Millennia replaced the roof, resealed the parking lot, installed new washing machines, and placed a bench and a garden of birds of paradise in front of the rental office.

But tenants say improvements didn't go far enough. Two years later, in 2018, Rivers and about a dozen others interviewed by *New Times* say the conditions that caused them to form the tenants' association were never treated with much more than a coat of paint. "We are gonna stand up for our rights and make our units as they're supposed to be," Rivers says, "safe, decent, and sanitary."

Cordoba is not unique: Residents of government-subsidized, Millennia-owned properties across the nation have complained of neglected infrastructure and mismanagement, according to media reports. Early this summer in Kansas City, a ceiling in a Millennia-owned apartment fell on a girl on her 16th birthday; she survived after being rushed to the hospital. In West Palm Beach, where residents of Millennia's Stonybrook Apartments were living in condemned units over the summer, five babies have allegedly been treated in local hospitals for breathing problems due to poor air quality. In Memphis, Troy Darnell Fleming sued Millennia after he contracted Legionnaires' disease, a severe form of pneumonia the 55-year-old says was caused by bacteria festering in his A/C unit. According to the complaint, his doctors advised him to move out of the apartments. But like many Millennia tenants, Fleming had nowhere else to go. (In a statement in response to the lawsuit, Millennia wrote that it took Fleming's complaint "very seriously" and intended to investigate his allegations.)

Last summer, Cordoba failed an annual inspection by the U.S. Department of Housing and Urban Development. Inspectors cited 41 health and safety violations, including broken fire alarms, holes in walls, mold and mildew, missing doors, and exposed electrical wires. After initially failing inspection again in 2018, the complex barely passed after Millennia appealed the report. HUD has since required the company to inspect every unit; Millennia has vowed to remove all the mold, fix the security gate, paint the building, and repair the pool. "We invested in improving the property as soon as we bought it, made significant progress early on toward that goal," says Laurie Roberts, a Millennia spokesperson. "[And we] still continue to make updates."

But residents are wary. "It's hell. That's it — I can't give you no other words," says Alicia Davis, who has lived at Cordoba Courts for three years with her asthmatic 5-year-old son. "I can't tell you nothing else. Just hell."

Less than a year after it acquired Cordoba, Millennia purchased Key Tower, a granite-and-steel skyscraper that looms over downtown Cleveland and Lake Erie, for \$267 million. At 57 stories, it is the tallest building in Ohio. CEO Frank Sinito's office is on the 13th floor.

Sinito, a clean-cut middle-aged man with a toothy smile, got his start in business in 1985 after working his way through Cleveland State University as a bartender. After graduating with a degree in economics, he purchased his first complex, a 14-unit apartment building for people with disabilities in a Cleveland suburb. "I loved the social mission of it and decided this is what I wanted to pursue," Sinito last year told *La Gazzetta Italiana*, an Italian-American-oriented online newspaper in Ohio.

Over the next decade, Sinito expanded his portfolio across Ohio and the Midwest, acquiring about 1,000 units. "It was just me, me, and me," he said at a recent city council meeting in Riviera Beach. "I was the property manager, the regional manager, the maintenance tech guy. I pretty much did it all."

In 1995, Sinito's work paid off, and he incorporated the Millennia Companies to oversee his affordable-housing and market-rate properties, a restaurant he owns with his wife, and two skyscrapers in downtown Cleveland including Key Tower. "The passion never left me for providing a house for the least of the least," Sinito told *La Gazzetta*. "Millennia prides itself on elevating the standard of Section 8 housing. I always ask myself, 'Would I live in the apartment homes I've created?'"

Sinito has had to overcome a difficult past. His whole adult life had been spent struggling to maintain a relationship with his father, Thomas, who died of a heart attack in the yard of Belmont Correctional Institution, a state prison in Ohio, two years after Millennia was incorporated. Thomas had been incarcerated on more than 70 counts of racketeering and possession of marijuana and cocaine with intent to distribute. A years-long FBI investigation into a Cleveland crime family led to the bust.

After the death, the state sent Sinito a box of his father's possessions. Inside were a pair of worn-out running shoes and a dog-eared copy of the Bible. Sinito opened the tome, and as he "began reading his father's copy of the Word of God, reading the notes in the margins and allowing the Holy Spirit to penetrate his heart, he surrendered his own life to Jesus Christ," according to his biography on the website of True Freedom, a nonprofit prison ministry he founded in 2005. Millennia also offers religious services on many of its properties.

Today, Millennia owns and operates more than 28,000 units of affordable and market-rate housing nationwide, which was mostly acquired in the 2000s. Tom Mignogna, the company's development manager, says Millennia differs from other real-estate firms in that "we tackle the most challenging properties in the country." Through its sister firm, American Preservation Builders, Millennia acquires complexes with the aid of a federal tax credit for building affordable housing.

"Since 2014 alone, Millennia has preserved (or is in the process of preserving) more than 4,000 affordable-housing units for low-income residents," Roberts, the company's spokesperson, wrote to *New Times* in response to emailed questions.

Among the challenging properties Millennia has managed is the portfolio of Global Ministries Foundation (GMF). The Memphis-based nonprofit had been mired in a three-year scandal after residents across the country complained of rats, mold, cracked roofs, and shoddy repairs.

The feds recruited Millennia in 2016 to take over Global Ministries' portfolio of about 60 complexes across the nation, including Stonybrook Apartments in Riviera Beach, where residents have voiced complaints similar to those at Cordoba.

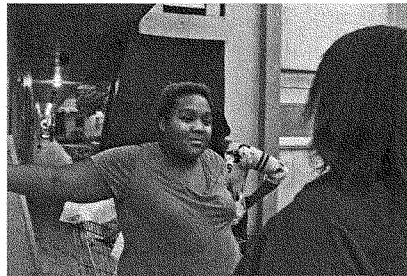
"What bothers me most about what we're experiencing is I didn't ask for this," Sinito said at a recent Riviera Beach city council meeting concerning the property. "I was recruited to buy the GMF portfolio. When I look at it now, I regret it."

Millennia is still in the process of that deal, but it owns Cordoba Courts outright. Tenants of the project-based subsidized housing pay 30 percent of income in rent, and owners collect the rest as a subsidy from the federal government. If tenants move out, they can't take the subsidy with them.

When Shalonda Rivers, who found the maggots in her heater, moved into Cordoba in 2001, there was no gazebo, no central A/C, and no paved concrete, she says. The complex was built in 1970 as part of a wave of affordable-housing construction. Its former landlord, Miami Property Group, made some capital improvements in 2006 but didn't invest enough money to keep the aging building up to code.

By the time Millennia acquired Cordoba in 2016, problems had become severe. T+S Roofing Systems, a Bird Road company, was called on to do repair work. "The roof... was neglected," co-owner Louis Toledo says. "The units must have been having leaks for years on end."

But Millennia didn't undertake an accompanying renovation of the apartments' interiors. "The three-quarters-of-a-million-dollars-worth of improvements we made were not intended to comply with codes," Roberts wrote to *New Times*. "Rather, they were made to make the property more inviting and make people proud to call Cordoba Courts home."



Kiara Green complains to Rivers about mold in her home.

Photo by Michael Campina

A week before Christmas 2017, Myra Morrison was packing her bags. There was a lot the 39-year-old hoped to take when she left her two-bedroom apartment in Cordoba: her son's green, red, and white onesie; his baby pictures; and his little-league baseball gloves. But they had been ruined by the mold that had taken over her apartment.

"Those are memories I can never get back," Morrison says.

She says she alerted the property manager six times in nine months about the mold, which originated from a leak behind the bathtub that was so bad water would seep through the hallway and into the living room. After maintenance workers tore out her tub to locate the leak's source, they found a pipe had rusted and burst. They patched it, but by then, the mold had taken root.

Morrison, a school bus driver, says management promised the mold would go away if she washed her walls with bleach and water. But it spread, curling the edges of her son's baby pictures and, ultimately, forcing her to leave.

So on December 18, she moved in with her ex-husband. If Morrison wants to return to a subsidized apartment, she will have to place her name on Miami's years-long waiting list.

"You come home from work and you have to deal with the smell, the dripping water, the buckets in your bathroom," Morrison says. "I had little white mushrooms growing out of my ceiling."

The apartment doors at Cordoba Courts face each other across a grassy courtyard that's empty aside from a few skinny oak trees, some benches, and the gazebo that was installed in 2006. Panelling on one side of the gazebo's roof has been replaced with unpainted plywood. When it rains, the courtyard floods, attracting mosquitoes. Much of the decay, like the mold, is hidden behind closed doors. But in the afternoons, concerned mothers and grandmothers share stories of water leaks; mold and mildew; rats, roaches, and termites; dripping A/C units or bursting pipes; and sewage backing up into bathtubs.

Shirley Kemp, a 67-year-old who lives alone and wears green curlers in her hair, says a mouse bit her foot this past November as she watched *Law & Order: Special Victims Unit*. The rodent scurried away before she could get a good look at it. The next day, she hurried to a local doctor, who gave her an antibiotic for her swollen foot.

Daniels lifts the bedsheets and points to a hole in the wall that's big enough for a rat. After returning home, Kemp still had to deal with termites in her door frame and roaches scuttling over her counter. "I was terrified," she says. "I didn't want to stay in the apartment anymore."

One of the worst units is 104. Inside the dim residence, the air is thick with mildew. The A/C unit drips into a white bucket. In the kitchen, 16-year-old Chardonay Daniels peels back the black-and-white checked wallpaper covering the counters to reveal cracked linoleum underneath. Nearly all of the bottom cabinets are missing doors.

Daniels says her family moved into the apartment two years ago when her grandmother, 70-year-old Gloria Wesley, needed a place to stay. Wesley, who is a widow, requires a walker because of arthritis in her legs and has been in and out of the hospital the past couple of years. Managers assured the family they could accommodate Wesley, Daniels says. The family thought a walk-in shower, bathroom handrail, and wheelchair ramp would be ready when she began living there.

But on move-in day, Daniels says, the work hadn't been completed. Though the property manager assured the family it would be done, Wesley is still awaiting a wheelchair ramp that would allow her to go outside without her grandchildren's help. She spends most of her time watching movies on a queen-size bed. She says she has been too terrified to go anywhere else in the apartment after seeing a rat scurry across her living room last year. And she worries about her young grandchildren breathing in mold.

"We're paying our rent, and we still haven't been satisfied," Daniels says as she lifts the bedsheets in her brother's room and points to a hole in the wall that's big enough for a rat. "We pay on time every month, and we still haven't been satisfied."



Neighbors gathered under this gazebo to form a tenants' organization.

Photo by Michael Campina

Two other residents — 44-year-old Tara McDonald and 60-year-old Mary Ramsay — say they have requested disability accommodations but never received them. Ramsay says she has asked management multiple times if she can move to the ground floor because two slipped discs in her back caused by a bus accident make it difficult for her to climb stairs.

McDonald has used a wheelchair since surgery nearly two years ago. Though she was moved to the first floor a year and half ago, there is still no wheelchair ramp. Before her surgery, McDonald used to walk to the library to read James Patterson novels, but now she mostly watches TV in her living room. She can't go outside without help, and she can't work. "Before, I was independent," she says. "I didn't have kids, but I wish I did now."

Millennia spokesperson Laurie Roberts wrote in a response to emailed questions about Daniels, Ramsay, and McDonald that the company's policies comply with Fair Housing Laws and that she would need to verify if the three residents submitted accommodation forms. Rafael Scott, whom Millennia hired to manage Cordoba earlier this summer, says he received a form from McDonald in early August and is working to find a ramp for her unit.

Fourteen residents interviewed by *New Times* complained management doesn't take their concerns seriously. They contend it sometimes takes the maintenance staff weeks or even months to respond to work orders or repair requests. According to Gloria Shanahan, a HUD public affairs officer, between this past July 1 and August 10, Millennia had 52 open work orders for issues such as broken appliances and A/C units, wall and ceiling damage, and busted windows.

"The company's goal is to provide maintenance/repairs within 24 to 48 hours after a tenant submission, with a priority placed on repairs that involve health and safety," Roberts wrote *New Times*.

She also wrote that in the two years Millennia has owned the property, it has invested more than \$1 million in ongoing maintenance. (That amount is about 20 percent of the company's annual federal subsidy.)

Some tenants say if they push too hard, management slaps them with eviction orders. Tabitha Bullard, who had lived at Cordoba for at least a year, went to court in July 2016 after Millennia tried to evict her for not paying rent. The case was ultimately dismissed. In her answer, Bullard wrote on a sheet of printer paper: "The windows in the apartment are still broking [*sic*] and the landlord refuse [*sic*] to fix them."

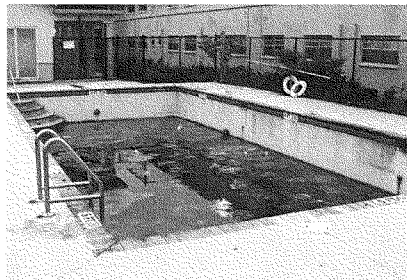
In May 2017, another resident, Tamara Perry, who lived at Cordoba with her son Jaquain, wrote in her answer to an eviction complaint: "The landlord is retaliating due to the numerous verbal requests for repairs to my apartment." Perry's eviction was also dismissed. Of the 24 eviction cases listed in court records, 17 were dismissed or settled between the apartment company and the tenants. Millennia responds that management files for eviction to enforce the lease and often settles, resulting in dismissal.

Opa-locka has cited Millennia for code violations nine times since it took over the apartments in 2016 for infractions such as broken lights or raw sewage. The city's most recent inspection, conducted this past July, cited incomplete repairs, drywall that had holes, leaking A/C units, and a dead rat found on a glue trap behind a stove. Failure to maintain the complex would result in the revocation of Millennia's occupational license and landlord permits. Esin Daniel Abia, director of building and licensing for the City of Opa-locka, wrote in the report.

In December 2015, Millennia was cited for mold and hit with a running fine of \$300 per day. But the fine wasn't enforced until February 2018, according to a special master's final ruling dated this past January 16. The fine totaled \$64,111.56 as of August 17, according to an email from Opa-locka Police Chief James Dobson.

Millennia has no record of the fine, according to Roberts. "The original order [from the city] covered specific instances, which were resolved," she wrote. "As to the new instance of... an ongoing fine, the company was never allowed due process in that matter... It appears the City made a sweeping determination, without allowing Millennia to present its case, or even be notified. How is that even possible?"

Asked about the discrepancy, Wilma Wilcox, director of code enforcement for Opa-locka, was insistent the fine is still in place. "I'm sure that the new manager knows about it — it's gonna force his hand to get these units into compliance," she says. "At the end of the day, they must pay the city for not being in compliance this whole time... It doesn't go away just because they fix it. This is a lesson going forward to force them to take it seriously."



The locked and filthy swimming pool is an example of neglect, tenants say.

Photo by Michael Campina

Shalonda Rivers grew up in a strict religious household in Miami Gardens, where her parents, Gladys and JB, enforced a curfew and forbid their daughters from wearing pants. One of seven children — four boys and three girls — she recalls horsing around in the backyard and biking with the neighborhood kids to the park at the end of the street.

Gladys regularly prepared dinnertime meals of collard greens, cornbread, fried chicken, lima beans, and squash. No one could approach the table, Rivers says, until her father began to eat. On weekends, Rivers was required to sweep, fold laundry, and wash dishes. "My mom felt that me being a girl, I should take on more responsibilities," Rivers says. "The boys, I feel, got away with a little bit more."

Every Sunday, the family attended church services that began with 30 minutes of silent prayer and continued with a half-hour of joyous clapping and singing from a hymn book. "We took the Bible, and we turned it into songs," she remembers, adding that she saw miracles. People would enter the church with crutches and leave "without the crutches, and we would put the crutches up on the wall."

Rivers attended Miami Dade College after graduating from high school, but she had to drop out after having her first child, James. She was then 19 years old. "We didn't have the luxury of knowing the seriousness of going to college and getting an education," she says. "We knew to graduate from high school... but it [wasn't] explained to us in detail."

After a few years of raising Ja-Shon at her parents' home, Rivers decided to move out. She took courses at a vocational college and began doing clerical work at Jackson Memorial Hospital. In 2001, she applied to live at Cordoba, she says, because she knew a single parent without a college degree would always struggle to make ends meet. "I knew I had to be responsible," she says. "I knew I had to raise my child."

Now 39 years old, Rivers still attends church every Sunday for prayer and Wednesday nights for Bible study. Her favorite story is David and Goliath. Religion has equipped her to advocate for better living conditions, she says. "I wouldn't have the mindset I have if I wasn't raised in a church. I won't give up easily, especially when I know something is wrong."

After forming the tenants' association in 2013, she quickly concluded that most who lived at Cordoba didn't know their rights — many who received eviction notices simply left, unaware they could contest them. At meetings, she distributed a list of contacts such as Legal Services of Greater Miami, which represents tenants pro bono.

Tenants began approaching Rivers when issues arose. On her phone and computer are thousands of pictures of rusted pipes, water leaks, mold, and dead pests that her neighbors have sent her. She often delivers disabled tenants' rent checks to management. "They look down on us," Rivers says. "When people have riches or luxury, they think because we're living in low income that we're nobody."

Michael Kane, the director of the National Alliance for HUD Tenants, an organized network of more than 300 tenants' associations across the nation, says Rivers has worked hard for her neighbors. "She's had to spend years fighting," he says. "Everybody let her down. No one did what they're supposed to do."

Rivers believes she faced retaliation from management for her work as the president of the residents' council. She's still fighting an eviction notice she received earlier this year. Millennia maintains she violated her lease agreement by twice refusing to allow inspectors into her apartment during a nine-month period. Rivers responds that her son, who was age

17 at the time, simply told inspectors that his mother wasn't home. In a countersuit filed against Millennia this past June 6, Rivers claims the landlord failed to maintain her unit and improperly searched her personal belongings. (Millennia denies the allegations.)

Despite the controversy, Rivers believes her strategy is working. Federal authorities, including representatives of Congresswoman Frederica Wilson, have toured the property, and Millennia recently hired a new property manager. The company has vowed to inspect every unit for mold, remediate when necessary, and make more capital improvements, including fixing a broken security gate and the swimming pool.

In mid-August, Millennia CEO Frank Sinito visited Cordoba. Rivers showed him her unit while her 5-year-old daughter Joanna ate pizza at the dinner table. They looked at holes in the wall that she's filled with steel scouring pads to ward off rats, cracks in her bathroom ceiling that threaten collapse, and mildew around her bathtub.

At the end of the tour, Sinito, dressed in a mint-green button-down shirt and chinos, vowed to fix the problems. "Anything that needs repair we'll get repaired," he told Rivers. "Promise."

Millennia has posted notices on residents' doors notifying them of work scheduled over the next 60 days. A week ago, Millennia moved Rivers and her four kids to a hotel while her unit is being repaired. She is waiting to return to see if the conditions are better.

She believes that had she not prayed to God to lean on "the righteous side," she might not be seeing a difference today.

"It's about point-blank what's right and what's wrong — simple," Rivers says. "I want my apartment fixed; other residents want their apartments fixed. It doesn't matter how many repairmen you bring in — until it's fixed, I'm gonna say the same. I'm gonna shout it from the mountaintop."

Correction: *An earlier version of this story incorrectly cited a \$600,000 penalty levied against Global Ministries Foundation. That citation has been removed.*



Susan Rollins

Executive Director

Housing Authority of St. Louis County

November 19, 2019

The cost of being poor in America is taxing. Often, low-income individuals are shuffled into unsafe neighborhoods with high crime rates. These neighborhoods often have dilapidated and vacant buildings. The neighborhoods may be havens for drugs, violence, and crime. Access to healthy food is scarce, as most poor communities have “food deserts”. Many schools in these neighborhoods struggle with overcrowding, behavioral issues, and accreditation. They may have teachers who are stressed and have access to few resources. Many people who live in these neighborhoods do not have premium healthcare. As a result, they suffer from high rates of diabetes, high blood pressure, and other life-threatening diseases. It costs a lot to be poor in America.

In the past, public housing has been considered a safety net to help people who are at risk of becoming homeless. Public housing was originally developed in 1937 to house low-income families. Units are typically owned and managed by local public housing authorities (PHAs) who hold a contract with the federal government. Families pay no more than 30% of their adjusted gross income for rent, while the agency takes care of maintenance and upkeep. During the 1980s and 1990s, public housing development began to decline and has since ceased. The decrease in capital funding has led to unaffordability and systematic disrepair. In turn, many housing



authorities have begun to demolish and dispose of their public housing stock. Unfortunately, the Housing Authority of St. Louis County (HASLC) is no stranger to this.

Today capital fund programs are inadequate. There is so much deferred maintenance in public housing that it's almost impossible to maintain the current housing stock. Therefore, housing authorities apply for demolition/disposition applications and the units are demolished because it is inadequate and obsolete. Tenants who live in subsidized units set for demolition will receive a tenant protection voucher. Many are happy to leave. They get to move into different neighborhoods and put their children into better school districts. Sometimes when we get our clients to move into the Section 8 program, they're dealing with private landlords for the first time where there are different rules. Now our relocated residents may be experiencing something different- it's a different world with private landlords who potentially could be slumlords. People then ask themselves, "How do I work my way through this new process, which is something that I've never dealt with before?"

Lately, the Wellston Public Housing Authority has garnered much attention. It has been recommended that the housing stock be demolished, and residents given tenant protection vouchers. Wellston is 1 of 92 municipalities in St. Louis. It currently has 201 units of public housing, which HASLC absorbed at the request of HUD. Currently, the units are in substantial disrepair and require almost 14.5 million dollars to repair and maintain. Many of the residents in these units are negatively impacted by the physical conditions and the surrounding environment. During a 2016 reportⁱⁱⁱ, a former resident discussed her living conditions with researchers. She cited holes in the walls due to rodents, and severe pest infestation. Her children subsequently



acquired asthma and breathing problems and were restricted from playing outside due to the constant gunfire and violence.

Like many public housing communities, Wellston is situated in a “food desert.” A Google search indicated that the nearest supermarket is approximately 7 miles away from the center of Wellston. Residents without vehicles must rely on public transportation to reach the supermarket. A 2016 study from Washington University highlighted the detrimental effects that food deserts have on low-income communities. Researchers found that areas with high poverty rates are more likely to have fast food, convenience, and liquor stores, but few supermarkets and banks.^v A former Wellston resident told researchers that she stopped cooking and turned to fast food at a nearby shop. This cost her more money but was more accessible.^{vi} Many public housing residents in Wellston face similar situations.

Transportation becomes another issue as reflected in the comments that were just made about hunger and food deserts, as well as working families. Approximately 20 miles from downtown St. Louis, there was public housing development called Valley Park. Valley Park has become an oasis because of highways built around it. An 18-year-old young resident walked down the median of a four-lane highway to get to work, because there are no bus stops close to her apartment. Her working hours did not coincide with any of the express buses going in the direction she was traveling. Therefore, she walked down the highway for two miles to get to the Burger King for a \$7.50 hourly wage^{vii}. Although she was terrified of the large trucks that went by on the highway, she was determined to do what was best for her family and for herself. Unfortunately, local housing authorities were not brought to the table with Metro or other



agencies responsible for public transportation. There was no discussion about how to make sure that our residents still had access to inexpensive transportation. A local reporter later questioned the Metro Transit System about the need for a bus stop. The organization responded that putting a stop closer to the Valley Park public housing would “take away from someone else who needed a stop.”^{viii}

Housing in St. Louis is a critical topic. Public housing has been one of many ways to address the housing crisis in our area. Unfortunately, public housing stock has historically been neglected. Many PHAs record astounding losses regarding deferred maintenance. This lack of upkeep can contribute to health concerns for residents of public housing. Studies have shown that residents of defunct and derelict public housing units are more likely to experience poor health related to heating and ventilation issues, pest infestation, and mold and fungus.^{ix} Many of our residents have complained of severe bed bug infestations, mice, and other vermin.

However, this is not just a “public housing” issue. PHAs who issue Housing Choice Vouchers (HCV) often encounter landlords who house tenants in sub-standard units. In 2018 when TEH Realty was brought to my attention, I did what has become my signature response: I went to the management office and spoke to clients. My inspection revealed units that I would not feel comfortable having a family member live in.

During this time, TEH owned approximately 2400 units in the St. Louis area and received over a million dollars in subsidy payments. Although TEH was contacted by HASLC (and residents) and subsequently informed of the necessary maintenance, TEH continued to accept voucher payments from HASLC while refusing to make repairs. In 2019, HASLC terminated its



landlord agreement and refused to accept new vouchers for any TEH properties.^x The Housing Authority of Kansas City has done likewise.^{xi}

Healthcare is a prominent component of the puzzle. Since 2017 HASLC and the St. Louis City Housing Authority have collaborated to offer a mobility program to HCV tenants. This program helps tenants find housing in middle-income neighborhoods. The goal of this program is to help deconcentrate poverty and provide tenants with access to neighborhoods with higher opportunity. Research surrounding this program has shown that residents who partake in the program often exhibit lower rates of diabetes, obesity, major depression, and toxic stress^{xii xiii}. Reports have also shown that mobility programs help to lower the odds of in-patient hospitalizations.^{xiv}

In the future we need to be more creative. There need to be dedicated Community Liaisons joining housing authorities to various departments of our government such as the agriculture department so community gardens could be funded and become a source of food not only for our residents but for the greater community. The Liaison could join us to the Transportation department to spur economic development around specific neighborhoods that are in need.

HUD needs to be given more autonomy to force multi-jurisdiction vouchers. In St. Louis City and County vouchers move across jurisdiction lines making it easy for residents to move freely from one jurisdiction to another. This has proven to be very successful with our Mobility Program and our program has become a national model.



We need to continue to have demonstration programs like the UPCSV that is looking at standardizing HQS inspections at a higher level than what is in place. In this area HUD should have autonomy over what might pass as acceptable by local governments.

And finally, local HUD offices must be staffed with personnel who are proactive and willing to know the faces of the people we serve and to serve in anyway possible.

ⁱSee: (The 2018 Annual Homeless Assessment Report (AHAR) to Congress, 2018)

ⁱⁱSee: (2018 Point in Time & Housing Inventory Counts St. Louis County CoC & St. Louis City Coc, 2019) ⁱⁱⁱSee: (Segregation in St. Louis: Dismantling the Divide, 2018) ^{iv}See: (Food Access Research Atlas, 2019) ^v See:(For the Sake of All: Civic Education on the Social Determinants of Health and Health Disparities in St. Louis, 2016) ^{vi}See: (For the Sake of All: Civic Education on the Social Determinants of Health and Health Disparities in St. Louis,

2016) ^{vii}See: (In Valley Park, Public Housing Means Less Crime but More Transportation Challenges, 2014) ^{viii}See: (Segregation in St. Louis: Dismantling the Divide, 2018)

^{ix}See: (Is Public Housing the Cause of Poor Health or a Safety Net for the Unhealthy Poor?, 2010) ^xSee: (TEH Termination Notice, 2019)

^{xi}See: (KC Housing Authority Prevents New Leases to TEH Landlords, 2019)

^{xii}See: (Long-term neighborhood effects on long-income families: Evidence from move to opportunity., 2013)

^{xiii}See: (Excessive stress disrupts the architecture of the developing brain, 2014) ^{xiv}See: (What are the Effects of Neighborhood Poverty on Healthcare Utilization? Evidence from the Moving to Opportunity Experiment., 2018)

Testimony on
Safe and Decent? Examining the Current State of Residents'
Health and Safety in HUD Housing
before the
House Financial Services Subcommittee on
Housing, Community Development, and Insurance
by
Margaret Salazar,
Executive Director, Oregon Housing and Community Services and
Secretary/Treasurer, National Council of State Housing Agencies
November 20, 2019

Chairman Clay, Ranking Member Stivers, and members of the Subcommittee, thank you for this opportunity to testify on behalf of Oregon Housing and Community Services (OHCS) and the National Council of State Housing Agencies (NCSHA) on our shared priority to ensure federally assisted housing is safe, decent, and affordable for the tenants who rely on it.

My name is Margaret Salazar, and I am the Executive Director of OHCS, Oregon's housing finance agency. We envision a future where all Oregonians can live free from poverty and pursue prosperity. OHCS administers federal and state programs that provide housing stabilization across the housing continuum — from preventing and ending homelessness, to assisting with utility costs, to financing affordable housing, to providing homeownership resources.

I also have the privilege of serving as the Secretary/Treasurer of NCSHA, which is a nonprofit, nonpartisan organization created by the nation's state Housing Finance Agencies (HFAs) more than 40 years ago to coordinate and leverage their federal advocacy efforts for affordable housing.¹ State HFAs, like OHCS, are mission-based, publicly accountable entities created under state law to promote and advance affordable housing in their states and communities. They operate as public or quasi-public agencies with statewide authority and qualify as Public Housing Agencies (PHAs) for purposes of administering federal housing assistance funded by HUD. Most have operated for several decades and have distinguished track records in successfully administering federal and state housing programs.

HFAs have their fingers on the pulse of the properties in their multifamily portfolios — including those with HUD financing — through stewardship, compliance monitoring, and asset management. Thirty-three HFAs, including OHCS, are also Section 8 Performance-Based Contract Administrators (PBCAs) for HUD's Project-Based Rental Assistance (PBRA) portfolio, providing direct oversight and monitoring of the regulatory compliance and physical condition of project-based Section 8 properties. This is where I will focus my testimony.

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

HUD relies on PBCAs, including state HFAs, to conduct ongoing administrative duties, under its oversight, for the majority of its PBRA portfolio. As of October 2019, PBCAs administered 15,516 of 17,315 total PBRA contracts, more than 88 percent of contracts. Congressional appropriators, most recently in the accompanying report to the Senate-passed FY 2020 appropriations bill, recognize how integral PBCAs are to HUD's efforts to be more effective and efficient in the oversight and monitoring of the PBRA program, to reduce improper payments, to protect tenants, and to ensure properties are well maintained.

PBCA responsibilities include conducting on-site management reviews of assisted properties; adjusting contract rents; and reviewing, processing, and paying monthly vouchers submitted by owners, among other tasks. OHCS has served as the PBCA in Oregon since HUD first piloted the PBCA Initiative in 2000. As the PBCA in Oregon, OHCS partners with HUD to ensure PHAs and private property owners comply with all statutory requirements pertaining to the PBRA program. OHCS also partners with PHAs and private property owners to ensure that all tenants are provided with quality affordable housing that is well maintained and well managed. Oregon's PBRA portfolio includes 254 properties with 9,704 homes for families, amounting to approximately \$5.9 million in total monthly subsidy payments.

PBCAs are an important touchpoint for tenants, responding to tenant concerns in a timely manner and acting as an "early warning system" for HUD monitoring and enforcement when properly engaged. HFA PBCAs also take proactive approaches to reduce non-compliance with program rules and leverage their affordable housing resources to improve and preserve properties in their states.

OHCS has a shared interest in the preservation of affordable properties with direct subsidy. We utilize the FHA-HFA 542(c) Risk Sharing Program, the HOME Investment Partnerships (HOME) program, and federal Low Income Housing Tax Credit (Housing Credit) allocations to ensure Section 8 properties remain affordable and in good condition throughout their long-term affordability periods. Within Oregon's Section 8 portfolio of 254 properties, there are 97 with Housing Credits, six with 542(c) Risk Sharing, and 19 with HOME funds, combined representing 48 percent of properties.

Oregon is also investing state resources in preservation. Governor Kate Brown and the Oregon State Legislature continue to make significant investments in affordable housing preservation, recognizing that preserving existing affordable housing is a critical part of addressing our housing crisis. OHCS received \$25 million from the Oregon Legislature this biennium to reinvest in these homes and ensure they will be safe, affordable, and available for the next generation. In addition, OHCS administers the Publicly Supportive Housing Preservation Program (PuSH). PuSH regulations require owners of affordable housing to give the local government, state government, or an approved designee an opportunity to purchase publicly supported housing in order to preserve the property's affordability. PuSH regulations require that these entities have the right of first refusal.

The shared interest in preservation benefits tenants and private property owners by reducing administrative impact on them, while increasing levels of oversight. Most HFA PBCAs can also help bridge the gap towards future funding by accessing replacement reserves and new funding to address capital needs. This results in well-maintained, financially stable properties that meet the immediate and long-term interests of tenants.

Despite these successes, PBCAs and their portfolios have been impacted by years of program uncertainty due to bid protests, funding constraints, inconsistent federal oversight, and HUD's long, complicated process of developing a procurement framework for PBCAs. For example, since 2011, HUD prohibited PBCAs in 42 states from conducting annual Management and Occupancy Reviews (MORs) — a critical tool of property oversight — while bid protests took place. HUD finally reinstated MORs in 2016, but even then PBCAs could conduct only a limited number of MORs each year because of HUD budgetary constraints.

The PBCA program now faces a critical juncture as HUD will soon release a new procurement solicitation detailing with whom it intends to contract to be PBCAs, their jurisdiction, and the scope of work. While HUD will provide Congress or stakeholders no information on this upcoming plan (citing rules on procurements in development), we hope that HUD has taken into consideration the constructive feedback it received after its first attempt at procurement and that the new solicitation will not suffer from the shortcomings of the previous attempt.

The previously proposed plan failed to comply with statutory requirements that HUD contract with PHAs. HUD sought to bifurcate the work done by PBCAs between regional and national contractors, away from a successful, state-based approach. If HUD had proceeded with that plan, it would have added undue risks to the federal government, negatively impacted the health and safety of the 1.2 million tenants who rely on PBRA, and endangered affordable housing preservation efforts throughout the country.

Congress must protect and improve the PBRA portfolio for the tenants who rely on it by ensuring that, as HUD prepares to release a new solicitation for PBCA contracts, it does not make mistakes similar to the first PBCA draft solicitations. This is why we urge this Subcommittee to support the discussion draft that further clarifies HUD's requirement to contract with PHAs for this work and to seek partners that have experience in addressing tenant concerns and preserving this critical stock of affordable housing throughout their respective states.

PBCAs Play a Critical Role in Property and Management Oversight

Today, more than 1.2 million low- and very-low-income households live in homes with PBRA. Two-thirds (66 percent) of these households include someone with a disability or who is elderly, and 28 percent are households with children. PBRA is intended to provide these households with decent, safe, and sanitary housing for rents they can afford. Without it, many of

these families would face worst-case housing needs, meaning they would pay more than half of their income for rent, live in severely inadequate physical conditions, or both.

It is important to state that most PBRA properties are in good physical condition and provide tenants with safe, healthy, and affordable homes. According to HUD, nearly 64 percent of the 17,315 properties in its PBRA portfolio are considered low-risk, 32 percent are medium-risk and less than 5 percent are troubled or high-risk properties; 95 percent have passing (60 and above) REAC scores; and 92 percent received satisfactory or above ratings on their most recent Management and Occupancy Reviews. This data, and the tenant and media reports we have heard about too often, indicate though that there are outliers.

It is essential that those outlier properties are improved and potential future problems are prevented. Every property's situation is unique, but factors that contribute to deteriorating conditions are increasing capital needs without enough resources to address them, problems with the REAC protocol, and issues with HUD using ineffective and unqualified REAC inspectors.

We understand HUD is conducting a wholesale reexamination of the REAC protocol, including replacing some inspectors. During a May 21 hearing of this full Committee, HUD Secretary Carson discussed this work and also noted that HUD is looking at the way the Department conducts the procurement of these inspectors, suggesting that HUD contracting with "the lowest bidder" meant "sometimes you get what you pay for. So you obviously have to be cognizant of that."

This is why a holistic, tenant- and asset-centric approach to oversight is so important. It is also why PBCAs are critical partners in ensuring early identification of problems and intervention when needed. HUD restored its MOR process in 2016, enabling PBCAs to look more deeply into issues affecting property operations and to follow up to ensure physical inspection findings have been resolved. As I stated before, though, PBCAs have only been able to conduct MORs of only roughly 43 percent of the portfolio every year since. This is because HUD does not have the budget to conduct more MORs on a more regular basis.

In Oregon, we monitor the physical condition of PBRA properties by tracking REAC inspections, the results of which are used to conduct MORs. OHCS staff monitors HUD systems to confirm when physical inspections are conducted and if any exigent health and safety deficiencies were observed. OHCS staff also obtains copies of REAC physical inspection reports completed by HUD REAC inspectors. During property visits while conducting MORs, OHCS staff follow up on REAC physical inspection report findings to ensure exigent and other critical deficiencies have been corrected. In addition, staff will communicate to the property owners any physical deficiencies observed by staff during the property visits.

PBCAs Are an Important Touchpoint for Tenants

One of the most important roles of a PBCA is to address tenant concerns regarding the physical and operational well-being of the properties in which they live. I'd like to take this opportunity to share a few ways in which PBCAs do this, and how HUD can engage PBCAs more readily to do this work.

First, PBCAs host hotlines tenants can call regarding health and safety concerns, management concerns, and/or questions about rent calculations and beyond. PBCAs are contractually required to respond to calls about life-threatening health or safety concerns within one hour, and other concerns within two days. PBCAs not only respond but they engage with the property owner and/or management and HUD to resolve the issues for tenants.

At HFA PBCAs across the country, tenants are also afforded the opportunity to meet in person or by phone to work through issues or explain program requirements. In Oregon, OHCS staff are available to tenants, applicants, community members, tenant associations, or anyone who would like to report health and safety concerns. To support access, OHCS provides a toll-free hotline number to tenants, which is posted at all Section 8 properties. Health and safety concerns can also be submitted online through our website or submitted in writing to OHCS's office. All health and safety concerns are taken seriously and responded to in a timely manner until concerns are corrected or mitigated by the property owner.

For example, OHCS receives calls from tenants living in Section 8 properties for the elderly and persons with disabilities voicing concerns about physical deficiencies in common areas regarding exterior doorways and elevators, or inadequate lighting in hallways and on property grounds. Often, tenants fear retaliation for having reported health and safety concerns. In these cases, OHCS will maintain confidentiality while alerting property owners of concerns and follow up until repairs are mitigated or corrected.

OHCS staff also engage tenants to report health and safety concerns by issuing a direct-mail survey to tenants, the results of which are held confidentially and used to help OHCS staff conduct annual MORs. In addition to reporting concerns, the survey assists with the assessment of tenant and property management relations.

Under HUD's current model, PBCAs handle the administration of all tasks for their respective jurisdictions. This means tenants have one point of contact, and HUD and governmental (congressional, state, and local government) staff know whom to contact in order to communicate important policy and regulatory guidance or to ask property-specific questions. While communication around this structure can be improved, the comprehensive scope of work is the best way to ensure a tenant- and asset-centric approach to oversight.

PBCAs' comprehensive scope of work also allows information to flow smoothly across PBCAs; if data impacts multiple tasks, PBCAs can respond holistically to ensure consistency and

timeliness of processing for all core tasks. As the sole provider of HAP contract administration services within their jurisdictions, PBCAs are accountable. Separating and assigning tasks among national and regional entities, as proposed by HUD in 2017, would greatly diminish these benefits and increase program complexity for tenants, property owners, and other stakeholders.

HFA PBCAs also proactively reduce noncompliance by training property owners in their states on a regular basis, and are regarded by the industry as a primary resource of expertise on matters from financing and maintenance to fair housing.

For example, OHCS partners with Oregon's local Affordable Housing Management Association to co-sponsor national training events, and OHCS staff provides customized training for PHAs and private owners. OHCS staff also provides ongoing technical assistance and guidance to Section 8 owners on all matters related to programmatic compliance, even beyond the scope of our redacted PBCA contract. Because OHCS is a Housing Finance Agency, we monitor and inspect properties with other federal funding sources. In fact, OHCS continued to visit more than one-third of Oregon's Section 8 portfolio in the years PBCAs were not under contract to perform Management and Occupancy Reviews.

Finally, due to the preservation efforts in which HFAs engage, HFA PBCAs have the ability to streamline inspections and other processes, thus creating less of a burden on tenants.

The efficiencies and tenant touchpoints I've listed above would be lost if HUD ignores the Housing Act of 1937 (Housing Act) and contracts with non-PHAs at regional and/or national levels. The burden of reconciling inconsistencies and service gaps will inevitably fall on the owners and management agents, and, ultimately, the tenants. Dividing these tasks will also necessitate coordination between contractors and likely lead to higher administrative costs and require more HUD oversight. It will sow confusion and could cause slower response times.

HUD has good partners in place with PHAs as PBCAs, sharing HUD's mission, and HUD should more readily use them instead of upending the entire program. Having good PBCAs in place is more critical now than ever because HUD staffing levels, in the field and at headquarters, have been challenged for years and appear to be only more challenged going forward. Additionally, HUD's Multifamily Transformation Initiative that took place a few years ago consolidated field offices to just 12 across the country. HUD has less of a state presence, necessitating stronger partners there to ensure properties are well maintained and tenants' well-beings are considered.

Future of the PBCA Program

Congress must protect and improve the PBRA portfolio for its tenants by ensuring that, as HUD prepares to release a new solicitation for PBCA contracts, it does not make mistakes similar to the first PBCA draft solicitations. Specifically, Congress must ensure HUD complies

with the Housing Act's requirement that it contract with PHAs for the administration of federal rental assistance.

HUD's previous procurement plans suggested it was circumventing this legal obligation by ending the PBCA program and becoming the "sole government party to all HAP contracts" while contracting out all relevant PBCA functions. Hiring vendors to perform all activities associated with administering rental assistance contracts is not consistent with the Housing Act.

Limiting applicants to PHAs is also a reasonable and appropriate method of ensuring HUD's partners are driven by the same objectives and interests as HUD and will likely result in less intensive HUD training and capacity-building requirements and minimize HUD's supervisory responsibilities. Congress should ensure state-based contracts and a comprehensive scope of work to ensure the tenant connections are not lost.

This is why we urge this Subcommittee to support the discussion draft that further clarifies HUD's requirement to contract with PHAs for this work and seek partners that have experience in addressing tenant concerns and preserving this critical stock of affordable housing throughout their respective states.

Thank you for your commendable efforts to support affordable housing and address the critical health and safety needs of those who rely on it. I am honored to have had this opportunity to testify before the Committee to provide NCSHA's and my own state's perspectives on the effectiveness of the PBCA program in addressing tenant health and safety concerns, and on how the Committee can strengthen the program to ensure continuity of these critical goals. NCSHA and its member HFAs stand ready to assist you in any way we can.



TESTIMONY OF DEBORAH THROPE, DEPUTY DIRECTOR
THE NATIONAL HOUSING LAW PROJECT

HEARING: SAFE AND DECENT? EXAMINING THE CURRENT STATE OF RESIDENTS'
HEALTH AND SAFETY IN HUD HOUSING

BEFORE THE HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON HOUSING AND
INSURANCE

WEDNESDAY, NOVEMBER 20, 2019

Good afternoon Chairman Clay, Ranking Member Stivers, and distinguished members of the Committee. Thank you for the opportunity to testify today on behalf of the National Housing Law Project on the Current State of Residents' Health and Safety in HUD Housing.

The National Housing Law Project (NHLP) is a charitable nonprofit organization founded over 50 years ago that provides legal and technical support for housing advocates, tenant leaders and public officials nationwide on the housing issues confronting Americans with incomes at or near the poverty level. Our work includes legal research, advice and co-counsel regarding litigation matters; legislative and administrative advocacy and assistance with Congress, federal agencies and state and local governments; publication of housing law manuals; and training and technical assistance.

NHLP also hosts the national Housing Justice Network, a vast field network of over 1,500 community-level housing advocates, legal services attorneys and tenant leaders committed to promoting affordable housing and protecting tenants' rights. This network of local advocates deals with the day-to-day problems and opportunities presented by implementation of affordable housing laws and programs. Our work with them has informed the views we express today.

Housing Conditions and Health Outcomes

The country faces an unprecedented affordable housing crisis. Almost half of renters, or 20.8 million Americans, spend more than 30 percent of their income on rent, and of these, 11 million spend more than 50 percent.¹ The U.S. Department of Housing and Urban Development's (HUD) programs are an essential source of housing that is affordable to our nation's severely cost-burdened families.² HUD housing programs help address homelessness and housing instability, two of the largest public health problems facing American families today.³

However, for some HUD residents, housing comes at the cost of their health. Federally assisted households are clustered in census tracts with high poverty rates and a deteriorating housing stock.⁴ Poor tenants, particularly black and Hispanic families, are disproportionately impacted by health-related hazards such as mold, allergens, lead, and poor air quality.⁵ Children face the biggest health risks due to the lasting impacts of substandard housing conditions.

Lead-based Paint. There is no safe level of lead poisoning. The Centers for Disease Control and Prevention makes it clear that the devastating effects of lead poisoning are immediate and permanent. Even at the lowest levels of exposure, children experience physical and cognitive impairment.⁶ Lead poisoning affects behavior, growth and cognition, causes permanent brain damage, anemia, organ

¹ Joint Ctr. for Hous. Studies of Harvard Univ., *The State of the Nation's Housing 2018* 30 (2018). https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

² For research on connections between housing, health, and community vitality see Ctr. on Budget & Pol'y Priorities, *Connecting the Dots: Bridging Systems for Better Health*, <https://www.cbpp.org/connecting-the-dots-0>.

³ HUD, U.S. Dep't of Hous. & Urb. Dev. Strategic Plan 2014-2018, at 22 (2014). HUD has indicated it will use a Housing First approach, along with leveraging other federal programs and local resources, to provide life sustaining health and social services through stable housing.

⁴ See generally *Who Lives in Federally Assisted Housing?*, NAT'L LOW INCOME HOUS. COAL. (Nov. 2012), <http://nlihc.org/sites/default/files/HousingSpotlight2-2.pdf>.

⁵ National Center for Healthy Housing, *Housing and Health: New Opportunities for Dialogue and Action*.

⁶ Agency for Toxic Substances and Disease Registry, *Registry Case Studies in Environmental Medicine (CSEM) Lead Toxicity*, Course WB2832, 44.

damage, seizures, coma, cardiac disease, and death, and results in academic failure and juvenile delinquency, reduced IQ, and other negative outcomes.⁷ Over 90,416 children have lead poisoning in the Housing Choice Voucher (Section 8) program and there are an additional 340,000 children living in federally-assisted housing who are at risk.⁸ Children in voucher units and in some Project-Based Section 8 housing must develop lead poisoning *before* HUD requires a lead hazard risk assessment, whereas all other federal housing programs undergo a risk assessment or paint inspection prior to occupancy by a child under age six.

Roaches and Mold. Both roaches and mold are asthma triggers.⁹ Asthma can severely limit an individual's life choices. 25 percent of adults with asthma are unable to work or carry out daily activities.¹⁰ For children, asthma is the leading cause of school absences, accounting for 10.5 million lost school days in 2008.¹¹ Despite highly effective treatment guidelines for asthma, the overall morbidity (attack rates, emergency department visits, and hospitalizations) and mortality rates among children have not decreased.¹² Public housing units are four times as likely to have roach infestations and three times as likely to have water leaks as private rental apartments.¹³

Carbon Monoxide. The effects of carbon monoxide poisoning occur almost immediately and can result in death in a matter of minutes. Exposure to carbon monoxide can cause permanent brain damage, life-threatening cardiac complications and death. For pregnant women, carbon monoxide poisoning can result in miscarriage and fetal death. Carbon monoxide is also dangerous for children, elderly individuals, and people with cardiovascular disease, among others. HUD recently started requiring inspections for carbon monoxide detectors in a small subset of voucher units¹⁴ but that won't help all of the 4.6 million families receiving federal housing assistance, many of whom are families with young children, elderly individuals, or people with disabilities. This year, four public housing residents died from carbon monoxide poisoning and at least thirteen people have died in public housing since 2003.

The connection between poor housing conditions and negative health outcomes is devastatingly clear. Congress must act now to implement policies that directly address housing conditions for all families living in federally assisted housing.

⁷ National Toxicology Program: U.S. Department of Health and Human Services, NTP Monograph on Health Effects of Low Level Lead (2012).

⁸ A pre-occupancy risk assessment is not required in the Housing Choice Voucher or the project-based Section 8 program receiving less than \$5,000 in assistance from HUD.

⁹ Testimony of Emily Benfer, JD, LLM, Solomon Center for Health Law And Policy, Yale Law School, Before the House Financial Services Subcommittee on Housing and Insurance: Oversight of the Federal Government's Approach to Lead-Based Paint and Mold Remediation in Public and Subsidized Housing (June 26, 2018) at 4.

¹⁰ Illinois. Dept. of Pub. Health, Addressing Asthma in Illinois (2009), http://www.idph.state.il.us/pdf/Asthma_State_Plan_3rd_Edit.pdf.

¹¹ *Id.*

¹² Marla McDaniel et al., Urban Institute, Making Sense of Childhood Asthma: Lessons for Building a Better System of Care (2014).

¹³ 2011 U.S. Census.

¹⁴ The Housing Opportunity Through Modernization Act of 2016, 130 Stat. 783; 42 U.S.C. § 1437f(o)(8)(1)(A)(ii). HOTMA authorizes housing authorities to adopt a policy that allows voucher families to move into a unit if the unit fails a Housing Quality Standard (HQS) inspection for a non-life threatening condition but lists the failure to have a working CO detector as a life-threatening HQS violation.

The Current State of Public Housing

Public housing is home to more than 2.6 million low-income seniors, people with disabilities, children, and families. Like other federal housing investments, public housing provides families with the stable homes they need to live with dignity and financial independence. In many communities, public housing is the only source of deeply affordable housing. Public housing also supports local economies and low-wage workers. Physical improvements to public housing buildings and the development of new public housing units injects \$2.12 back into the local community for every \$1 spent.¹⁵ In fiscal year 2015, federal funding for public housing directly supported 42,633 jobs and indirectly supported an additional 34,007 jobs nationwide.¹⁶

While public housing is an essential asset for local communities, for decades Congress has chronically underfunded public housing. Beginning in the early 1980s, funding for public housing has decreased significantly. In 2016, funding for repairs had fallen 53 percent since 2000, while operations had been fully funded only three times.¹⁷ Between 2010 and 2016, after the *Budget Control Act* went into effect, Congress cut public housing by \$1.6 billion. While Congress recently increased funding for public housing in fiscal year 2018, funding for the program is still 17 percent lower than the FY10 funding level.

As a result of underfunding, the public housing capital needs backlog is likely close to \$50 billion dollars and grows at a rate of \$3.4 billion per year.¹⁸ Although many public housing properties are passing inspections, they are in need of capital improvements.¹⁹ 10,000 public housing units are lost each year due to deteriorating conditions and many of the health threats described above are directly attributable to Congress' failure to provide enough funding for basic upkeep of the public housing stock. As a major source of affordable housing that targets the nation's poorest families, it is imperative to repair and maintain the existing public housing stock.

The Current State of Project-Based Rental Assistance

HUD's project-based rental assistance (PBRA) programs provide critical affordable housing to 1.2 million low-income families across the country.²⁰ Project-based rental assistance allows tenants to pay

¹⁵ Econsult Corporation (2007) Assessing the Economic Benefits of Public Housing - Final Report" (https://www.housingcenter.com/wp-content/uploads/2017/11/EcolmpactReport03_01_07.pdf) The report, Assessing the Economic Benefits of Public Housing, quantifies the contribution public housing provides to local economies and describes its role in supporting local industries and low wage workers.

¹⁶ Weiss, E. (2017). *A Place to Call Home: The Case for Increased Federal Investments in Affordable Housing*. National Low Income Housing Coalition. Retrieved from <http://nlihc.org/sites/default/files/A-Place-To-Call-Home.pdf>.

¹⁷ Rice, D. (2016). *Cuts in Federal Assistance Have Exacerbated Families' Struggles to Afford Housing*. Center on Budget and Policy Priorities. Retrieved from <https://www.cbpp.org/research/housing/chart-book-cuts-in-federal-assistance-have-exacerbated-families-struggles-to-afford>.

¹⁸ Finkel, M., Lam, K. et al. (2010). *Capital Needs in the Public Housing Program*. Abt Associates Inc. Retrieved from https://portal.hud.gov/hudportal/documents/huddoc?id=PH_Capital_Needs.pdf.

¹⁹ According to HUD, nearly 92% of its 6,923 public housing properties have passing scores of 60 or higher on REAC inspections.

²⁰ HUD, Programs of HUD (2018).

rent based upon their income²¹ and can be paired with units in HUD's multifamily mortgage programs to provide a deeper level of affordability. 56% of families living in PBRA housing include a member who experiences a disability or is elderly. The average income of households that live in PBRA units is less than \$12,000.

With project-based rental assistance, a private for-profit or non-profit owner enters into a contract with HUD to provide affordable units.²² The PBRA program leverages private dollars to provide affordable housing and often includes support services to help families succeed and work towards financial independence. Although a vast majority of PBRA properties are in good physical condition,²³ some properties face serious health and safety defects.

HUD's current physical inspection protocol, the Real Estate Assessment Center (REAC) inspection, does not adequately assess the physical conditions of HUD properties.²⁴ The process is antiquated and has not evolved since REAC's adoption 21 years ago.²⁵ The REAC inspection process was intended to hold owners of HUD multifamily housing to HUD's physical conditions standards, although HUD provides little data about how often it has opted to use the tools available to bring properties into compliance.

Key Recommendations

Congress should increase HUD oversight requirements when HUD identifies troubled/failing properties. HUD uses physical inspections of assisted properties to ensure assisted housing is decent, safe and sanitary. However, HUD's current physical inspection process has remained largely the same since its adoption in 1998.²⁶ The dangers of a stagnant physical inspection process are especially concerning in the context of detecting toxins and other environmental hazards. Common toxins and environmental hazards are not readily identified by inspectors, and HUD has not integrated technology advances into the physical inspection process to assist inspectors in detecting toxins and environmental hazards. These toxins and hazards have a detrimental effect on the health of families and will inevitably increase their health costs. Tenants have few options to resolve habitability concerns.

HUD has the authority to create remediation plans and to use penalties to bring properties into compliance. However, HUD's *obligation* to do so has weakened with time. Previously, Congress required HUD to (1) create Compliance, Disposition and Enforcement Plans if the property was considered

²¹ *Id.*

²² *Id.*

²³ According to HUD, 97% of its 25,168 multifamily properties have passing REAC scores of 60 or higher.

²⁴ Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols, 84 Fed. Reg. 43,536-38 (Aug. 21, 2019). *See also*, U.S. Gov't. Accountability Office, Real Estate Assessment Center, HUD Should Improve Physical Inspection Process and Oversight of Inspectors (2019); Molly Parker, *HUD's House of Cards "Pretty Much a Failure": HUD Inspections Pass Dangerous Apartments Filled with Rats, Roaches and Toxic Mold*, PROPUBLICA (Nov. 16, 2018, 11:00 AM), <https://www.propublica.org/article/hud-inspections-pass-dangerous-apartments-with-rats-roaches-toxic-mold>.

²⁵ *See* Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols, 84 Fed. Reg. 43,536, 43,538 (Aug. 21, 2019); Dep't of Hous. and Urban Dev., Improving Real Estate Assessment Center's (REAC) Inspections: A Presentation to HUD's Inspection Partners, HUD.GOV (Apr. 4, 2019), https://www.hud.gov/sites/dfiles/PIH/documents/REACNewInspectionModel_ls_atl.pdf.

²⁶ *See* Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols, 84 Fed. Reg. 43,536, 43,538 (Aug. 21, 2019).

troubled²⁷ and (2) take additional enforcement action if a property was not within compliance following the remediation deadline.²⁸ Now, HUD is only required to issue a Notice of Default or a Notice of Violation in lieu of a more comprehensive remediation plan.²⁹ Although HUD still has the authority to take an additional enforcement action following continued non-compliance,³⁰ it is unclear how often HUD has opted to use this tool. We offer the following recommendations to increase HUD oversight of failing properties:

- Create an early warning system to identify low-performing owners and housing authorities;
- Require HUD to take a more hands-on approach once it identifies a troubled or failing property. HUD should be required to actively assist with the building's rehabilitation, and in the public housing context, prioritize preservation as opposed to demolition or conversion;
- HUD should adopt a second stage environmental testing protocol for properties suspected by the inspector, management staff or residents of having environmental hazards;
- Incorporate local code enforcement reports and documentation into the Real Estate Assessment Center's (REAC) records on assisted properties;
- Require HUD to take an enforcement action to bring a property into compliance when the property continues to be in noncompliance after the remediation deadline;³¹
- Ensure that HUD has sufficient funding for oversight and enforcement of its physical condition standards;
- Provide clear guidelines and requirements for administrative receiverships to preserve properties and protect residents; the receivership process must also include residents, and;
- Streamline and standardize inspection scoring—currently a failing or passing score is dependent on individual inspector's training and other subjective factors.

Congress should require greater tenant involvement in the inspections process. As both Congress and HUD have recognized, active tenant participation is essential to the success of public housing and HUD-assisted properties.³² Resident engagement is especially important in the conditions context because residents can report real-time property conditions and monitor subsequent remedial

²⁷ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div L, tit. II, General Provisions, § 225, 129 Stat. 2242, 2894 (2016).

²⁸ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div L, tit. II, General Provisions, § 225, 129 Stat. 2242, 2894-95 (2016).

²⁹ Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div G, tit. II, General Provisions, § 221, 133 Stat. 13, 461 (2019)

³⁰ Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div G, tit. II, General Provisions, § 221, 133 Stat. 13, 462 (2019)

³¹ This can be achieved by reverting the preservation language included annually in the general provisions of HUD's appropriations back to the language previously used. *Compare* Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div L, tit. II, General Provisions, § 225, 129 Stat. 2242, 2894-95 (2016), *with* Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div G, tit. II, General Provisions, § 221, 133 Stat. 13, 461-63 (2019). H.R. 3745 also requires HUD to take an enforcement action if a property continues to be in noncompliance following the remediation date.

³² 12 U.S.C. § 1715z-1b (2019); 24 C.F.R. § 964.11 (2019) (promoting active resident participation in all aspects of the operation of Public Housing); 24 C.F.R. § 245.5 (2019) (recognizing the importance and benefit of residents participation in the creation and operation of suitable living environment, including the good physical condition of and proper maintenance of the property); HUD, Notice H 2012-21 (A) (Oct. 17, 2012) (stating "tenant participation is an important element to maintaining sustainable [properties] and communities").

action. However, HUD has continuously excluded residents from participating in the physical inspection process. We recommend the following to strengthen the role of tenants:

- Tenant surveys should be reintroduced as part of the physical inspection process and be accessible to non-technical users;³³
- Tenants and formally organized tenant organizations should be explicitly allowed to accompany the inspector during the inspection;
- Allow a physical inspection to be triggered upon request by tenants at the property or by a request from the city in which the property is located;
- Tenants should be afforded the same notice, comment and appeals rights provided to PHAs and owners during the physical inspection process;
- Assure tenants have access to inspection documents— project-based owners are required to give tenants notice of upcoming physical inspection, as well as access to review the inspection reports and all related documents;³⁴ in practice, REAC scores are rarely posted at developments and reports rarely made available to tenants upon request, despite the requirement;
- Tenants should be consulted by HUD during the development of the remediation plan for a troubled property;
- Create a way for tenants to enforce habitability requirements by allowing rent withholding or making tenants third-party beneficiaries to housing assistance agreements;
- To enable greater utilization of these engagement points, HUD should annually expend Section 514 funds for tenant capacity building grants and programs;
- Require resident, resident organization and advocate participation in the National Standards for the Physical Inspection of Real Estate (NSPIRE) demonstration and any subsequent evaluation/revision of REAC.

Congress should increase its oversight of HUD. Currently, neither tenants nor advocates have the data necessary to assess the condition of public housing and project-based rental assistance nationwide. Through the annual appropriation acts, HUD is required to submit quarterly reports to Appropriations Committees of the Senate and House regarding HUD's enforcement of its physical condition standards at troubled properties within the PBRA inventory.³⁵ HUD's quarterly reports summarize the enforcement actions taken to bring troubled properties into compliance and other actions taken by HUD to protect tenants. HUD is required by statute to also report to Congress annually about housing authorities that are in troubled status and the reasons. However, none of these reports include compliance information, nor where each property is in the remediation process. We offer the following recommendations to improve reporting requirements and Congressional oversight of HUD properties:

- Reports should include property-level enforcement information to support the work of keeping HUD accountable by Congress and local advocates.
- For public housing: HUD should submit to Congress quarterly reports that include: identification of troubled/failing properties in each public housing authority's inventory, property-level

³³ Both H.R. 3745 and the Tenants Empowerment Act include tenant surveys.

³⁴ Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div G, tit. II, General Provisions, § 221, 133 Stat. 13, 461 (2019); 24 C.F.R. § 200.857(g) (2019).

³⁵ Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div G, tit. II, General Provisions, § 221, 133 Stat. 13, 461, 463 (2019)

enforcement information, number and location of all demolition and disposition applications and data on the loss of units due to disrepair nationwide.

Other Recommendations to Address Public Housing Conditions

Congress should increase funding for the public housing program to address ongoing capital needs and maintenance backlogs. To bring our public housing stock into the twenty-first century, Congress must substantially increase federal investments in public housing. Congress should:

- Fully fund the Public Housing Capital Fund to address maintenance and repair needs of all existing units;
- Provide funding to small Public Housing Authorities (PHAs) to allow access to private investments for preservation and rehabilitation, and;
- Appropriate funding for Tenant Protection Vouchers for all units lost to demolitions, dispositions, or conversions.

Congress should amend Section 18 to strengthen tenant protections and long-term preservation requirements.³⁶ In some cases, preservation of public housing is not possible and a demolition or disposition is necessary to rehabilitate the property or relocate tenants to more suitable living conditions. While the RAD program provides long-term preservation of affordable housing and tenants' rights, Section 18 demolitions and dispositions fall short of providing meaningful relocation and other protections. NHLP's recommendations include:

- One-for-one unit replacement requirement for all demolitions, dispositions, and conversions; replacement units must ensure long-term affordability;
- Require full replacement vouchers for units lost;
- Stronger resident consultation and participation requirements, and;
- Permit PHAs to build replacement units on-site in gentrifying neighborhoods.

Congress should make it easier for PHAs to voluntarily merge and encourage consortia and regionalization among PHAs. Over 1,478 PHAs administer public housing programs across the country. This large number of PHAs increases costs and reduces program effectiveness. There is currently no incentive for a high-performing PHA to voluntarily take over a failing PHA's public housing portfolio because it will inherit the failing PHA's debt and other problems. HUD can take a series of steps to make it easier for PHAs to form a range of partnerships and/or mergers.

Current Proposals That Will Improve Residents' Health and Safety

The following is a description of current legislation and proposals that make necessary and welcome improvements to some of the more pressing issues facing HUD housing programs:

Carbon Monoxide Alarms Leading Every Resident to Safety Act, H.R. 1690

Residents in federally assisted housing are at a high risk for carbon monoxide (CO) poisoning. However, CO detectors are not required in any of the federally assisted housing programs. While many states have laws that require detectors in all rental units, inspectors for HUD assisted units typically do

³⁶ Section 18 of the U.S. Housing Act of 1937; 24 C.F.R. part 970.

not inspect for them because it is not required by federal protocol. In fact, all four deaths in public housing in 2019 occurred in states with CO detector mandates. The CO Alerts Act, will fund and mandate carbon monoxide detectors in all federally-assisted units, based on International Fire Code standards. This bill is a life-saving solution to an entirely preventable source of poisoning.

The HUD Inspection Oversight Act, H.R. 3745

Congress has authorized several mechanisms that HUD can use to bring properties back into compliance with physical condition standards. However, HUD rarely uses these tools to bring troubled properties back into compliance. H.R. 3745 would increase transparency and strengthen enforcement of the inspection process for project-based rental assistance properties. The bill requires that HUD work with owners, tenants and/or tenant organizations to develop remediation plans when physical defects have not been timely remediated. Additionally, the bill requires HUD to take additional enforcement action if a property continues to be in noncompliance. Finally, the bill requires HUD to conduct, on a semiannual basis, tenant surveys about the physical conditions of their building.

Lead Safe Housing for Kids Act

Despite the known dangers of lead paint poisoning and its disabling effect on children, current federal law for tenant-based housing programs only requires identification and control of lead hazards *after* children develop lead poisoning and the permanent brain damage it causes. Only ineffective visual assessments are required in the Housing Choice Voucher program and project-based Section 8 housing that receives less than \$5,000 in assistance per unit. All other federal housing programs with units built before 1978 undergo risk assessments or paint inspections that can identify lead hazards *before* children are exposed. The Lead-Safe Housing for Kids Act will close this harmful gap in policy that threatens the lives and futures of children. This bipartisan bill will require lead hazard risk assessments in *all* pre-1978 federally assisted housing prior to occupancy by a family with a child under the age of six, and give families the ability to have an emergency transfer out of a unit with an uncontrolled lead hazard without losing their housing assistance.

Tenants Empowerment Act

The Tenants Empowerment Act, based on a bill previously passed by the House Financial Services Committee, would incorporate tenants into the physical inspection process and would establish mechanisms for tenants to resolve habitability concerns. The proposal includes a provision that would permit assisted families to withhold their rent in an escrow account if HUD has determined the property has serious or repeated violations of housing standards. The Act would also allow tenants at the property, as well as the city, to request a physical inspection. Additional provisions would allow tenants to enforce the habitability requirements of specific agreements as a third-party beneficiary, would engage tenants during the physical inspection process, and would grant tenants access to building information. Finally, the proposal would require HUD to use Section 514 funds to support tenant capacity building.

The passage of these bills would make significant improvements to the health and safety standards of federally assisted housing. Thank you for the opportunity to submit testimony on behalf of the National Housing Law Project.

United States Government Accountability Office



Statement for the Record to the
Subcommittee on Housing, Community
Development, and Insurance,
Committee on Financial Services,
House of Representatives

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RENTAL HOUSING ASSISTANCE

HUD Should Strengthen Physical Inspection of Properties and Oversight of Lead Paint Hazards

Statement for the Record by Daniel Garcia-Diaz, Director,
Financial Markets and Community Investment

GAO Highlights

Highlights of GAO-20-277T, a statement for the record to the Subcommittee on Housing, Community Development, and Insurance, Committee on Financial Services, House of Representatives

Why GAO Did This Study

As of the end of 2018, roughly 4.4 million low-income households were served by HUD's three largest rental assistance programs. HUD has responsibilities for ensuring that housing units provided under these programs are decent, safe, sanitary, and in good repair, as well as for identifying and addressing lead paint hazards in these units.

GAO issued reports in March 2019 (GAO-19-254) on HUD's physical inspections of HUD-assisted properties and in June 2018 on lead paint hazards in the public housing and voucher programs (GAO-18-394). This statement is based on these two reports and discusses prior GAO findings on (1) REAC inspections and inspector oversight and (2) lead paint hazards. For the March 2019 report, GAO reviewed HUD documents and data related to REAC's physical inspection process. For the June 2018 report, GAO reviewed HUD documents and information related to its compliance efforts, performance measures, and reporting.

In March 2019, GAO made 14 recommendations to HUD to improve the physical inspections process and oversight of inspectors. In June 2018, GAO made six recommendations to HUD to improve compliance monitoring processes, inspection standards, and performance assessment and reporting on lead reduction efforts in federally assisted properties. HUD generally agreed with these recommendations. As of November 2019, HUD officials had identified planned steps to implement most of these recommendations but had not fully addressed them.

View GAO-20-277T. For more information, contact Daniel Garcia-Diaz at (202) 512-8678 or garciadiazd@gao.gov.

November 20, 2019

RENTAL HOUSING ASSISTANCE

HUD Should Strengthen Physical Inspection of Properties and Oversight of Lead Paint Hazards

What GAO Found

The Department of Housing and Urban Development (HUD) plays an important role in providing decent and safe housing for households receiving federal rental assistance. However, HUD needs to improve its physical inspection program and its efforts to identify and address lead paint hazards in federally assisted housing. To that end, GAO made 20 recommendations on these issues in its March 2019 and June 2018 reports.

Physical inspections of properties. HUD's Real Estate Assessment Center (REAC) is responsible for conducting physical inspections of HUD-assisted properties. Despite longstanding processes to inspect properties and take action against owners who do not address physical deficiencies, HUD continues to find some properties in poor physical condition and with life-threatening health and safety issues. In a March 2019 report, GAO identified a number of areas in which HUD needed to improve its physical inspection process and oversight of inspectors, which could help ensure the health and safety of those who live in HUD-assisted properties. For example, REAC had not conducted a comprehensive review of its inspection process since 2001, although new risks to the process have emerged since then. A comprehensive review could help REAC identify risks and ensure it meetings the goal of producing reliable inspections.

In addition, REAC uses contractors to inspect properties; these contract inspectors are trained and overseen by HUD staff known as quality assurance inspectors. However, GAO found REAC lacked formal mechanisms to assess the effectiveness of its training program for contractor inspectors and for HUD employees responsible for monitoring and overseeing contract inspectors. And, unlike professional inspection organizations, REAC does not have continuing education requirements. Formal mechanisms to assess the effectiveness of its training program and requirements for continuing education could help REAC ensure its program supports development needs of inspectors and that inspectors are current on any changes in policy or industry standards.

Lead paint hazards. GAO also identified a number of areas in which HUD could improve its efforts to identify and address lead paint hazards to protect children from lifelong health problems. Lead paint hazards (such as dust containing lead and chips from deteriorated lead-based paint) are the most common source of lead exposure for U.S. children. In a June 2018 report, GAO identified shortcomings in HUD's compliance monitoring and enforcement, inspection standards, and performance assessment and reporting for lead-reduction efforts. For example, HUD's monitoring efforts relied in part on public housing agencies to self-certify compliance with lead paint regulations. Additionally, the lead inspection standard for the voucher program is less strict than that for the public housing program. As a result, children living in voucher units may receive less protection from lead paint hazards than children living in public housing. Furthermore, GAO found that HUD did not track the number of lead-safe housing units in the voucher or public housing programs. Therefore, HUD may not be fully aware of the extent to which children have been living in unsafe units.

Chairman Clay, Ranking Member Stivers, and Members of the Subcommittee:

I am pleased to submit this statement on the Department of Housing and Urban Development's (HUD) efforts to ensure that households receiving federal rental assistance live in decent and safe housing. As of the end of 2018, HUD provided assistance to roughly 4.4 million low-income households through its three largest rental assistance programs: the Housing Choice Voucher (2.2 million), public housing (1 million), and project-based rental assistance (1.2 million) programs.¹ The Secretary of Housing and Urban Development has stated that the department has no higher calling than to make certain that taxpayer-supported housing is healthy for vulnerable families to live in. To ensure decent and safe housing, HUD performs regular physical inspections and enforces lead paint regulations for HUD-assisted housing.² In recent reports, we have found weaknesses in HUD's execution of its responsibilities in both of these areas.

HUD's Real Estate Assessment Center (REAC) is responsible for conducting physical inspections of multifamily and public housing properties. However, despite longstanding processes to inspect properties and take action against owners who do not address physical deficiencies, HUD continues to find some properties that are in poor physical condition and have life-threatening health and safety issues. Members of Congress, the HUD Inspector General, and media reports have raised concerns about properties that may receive inspection scores

¹The Housing Choice Voucher program provides subsidies for eligible households to rent a unit in the private rental market. Public housing is government-owned housing for eligible households. Both programs are administered by state and local public housing agencies. Under project-based rental assistance, HUD enters into contracts with private property owners under which they agree to rent their housing to eligible low-income tenants. Assistance under HUD's project-based rental assistance program is tied to specific units rented to eligible low-income families. Throughout this statement, we use "multifamily properties" to refer to multifamily properties that receive rental subsidies from HUD's project-based rental assistance or other similar programs, have mortgages that are insured or held by HUD, or both.

²For example, HUD's physical condition standards require all HUD housing to be decent, safe, and sanitary. See generally 42 U.S.C. §§ 1437a, 1437d, 1437f and 1437z-1. Additionally, HUD's primary lead paint regulation for federally owned or assisted housing is the Lead Safe Housing Rule. See Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, 64 Fed. Reg. 50140 (Sept. 15, 1999) (codified as amended in 24 C.F.R. pt. 35).

that are not a true representation of their physical condition. For example, in 2015, Eureka Gardens, a multifamily housing complex in Jacksonville, Florida, received a passing score on its REAC inspection but was later found to have physical deficiencies consistent with a much lower score.

In addition, concerns have been raised by members of Congress and the HUD Inspector General that HUD-assisted properties may not comply with lead paint regulations. Although lead-based paint was banned for residential use in 1978, hazards still exist in millions of homes. Lead paint hazards (such as dust containing lead and chips from deteriorated lead-based paint) are the most common source of lead exposure for U.S. children. Lead exposure can cause serious, irreversible cognitive damage that can impair a child for life. Young children are at greater risk of being exposed to lead because they often crawl on the floor, have frequent hand-to-mouth activity, and may ingest nonfood items.

Questions exist about HUD's ability to identify and address lead paint hazards. False certifications by some public housing authorities (PHA) that their properties comply with HUD's lead paint regulations continue to be a problem. For example, a New York City Department of Investigation report found that the New York City Housing Authority failed to conduct required lead inspections, knowingly filed false certifications of compliance with HUD, and failed to put adequate systems in place to confirm the accuracy of lead certifications before they were made.³ After a federal investigation, in January 2019 New York City and the New York City Housing Authority settled with HUD, agreeing to increased oversight and funding to remediate the issues.⁴

This statement is based primarily on two previously issued GAO reports: a March 2019 report on HUD's inspection standards and a June 2018

³The City of New York Department of Investigation, *DOI Investigation Reveals NYCHA Failed to Conduct Mandatory Lead Paint Safety Inspections for Four Years* (New York, N.Y.: Nov. 14, 2017).

⁴See Notice of Dismissal without Prejudice, Exhibit A, Agreement, United States of America v. New York City Housing Authority, No. 1:18-cv-05213-WHP (S.D.N.Y. Mar. 14, 2019).

report on lead paint hazards in HUD-assisted housing.⁵ Specifically, this statement discusses HUD's efforts related to its (1) physical inspection process and oversight of inspectors and (2) processes for monitoring and enforcing compliance with lead paint regulations in its rental assistance programs and measuring and reporting on its lead efforts. Our March 2019 report made 14 recommendations to HUD to improve the inspections program. Our June 2018 report made six recommendations to HUD to strengthen its efforts to monitor compliance with lead paint regulations and report on lead-safe housing units within the voucher and public housing programs.⁶

For our March 2019 report, we reviewed HUD documents and data related to REAC's physical inspection process, use of contract and quality assurance inspectors, and enforcement processes and interviewed HUD officials. For our June 2018 report, we reviewed HUD documents and information related to its compliance efforts, performance measures, and reporting and interviewed HUD officials. More details on our methodologies can be found in the two reports on which this statement is based. For this statement, we updated the status of recommendations from those reports, as of November 2019, by interviewing HUD officials and reviewing documents HUD provided about its efforts to implement these recommendations.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained

⁵GAO, *Real Estate Assessment Center: HUD Should Improve Physical Inspection Process and Oversight of Inspectors*, GAO-19-254 (Washington, D.C.: Mar. 21, 2019); and *Lead Paint in Housing: HUD Should Strengthen Grant Processes, Compliance Monitoring, and Performance Assessment*, GAO-18-394 (Washington, D.C.: June 19, 2018). On June 26, 2018, we issued a statement for the record on lead paint in housing. See GAO, *Lead Paint in Housing: HUD Should Strengthen Compliance Monitoring and Performance Assessment in Its Rental Assistance Programs*, GAO-18-650T (Washington, D.C.: June 26, 2018).

⁶Our June 2018 report on lead paint in housing has a total of nine recommendations. The remaining three recommendations relate to our review of HUD's lead grant program, which competitively awards lead hazard control grants to state and local jurisdictions. The grant program is intended to help jurisdictions identify and control lead hazards in low-income private housing and therefore is not included in the scope of this statement.

provides a reasonable basis for our findings and conclusions based on our audit objectives.

Multiple Aspects of the REAC Inspection Program Have Weaknesses

Our March 2019 report identified a number of areas in which HUD needs to improve its physical inspection process and its oversight of inspectors, which could help better ensure the health and safety of households that live in HUD-assisted properties. These areas include conducting a comprehensive review of the inspection process; incorporating sampling error as part of determining inspection frequency and enforcement actions; tracking whether inspections are conducted by their expected date; enhancing the process and practices related to selecting, training, and evaluating inspectors; and ensuring that new quality control policies and procedures are implemented.

Comprehensive Review of REAC Inspection Process

We found that REAC had not conducted a comprehensive review of its inspection process since 2001, although new risks to its process have emerged since then. For example, REAC staff have raised concerns that some property owners have taken advantage of the scoring system and others have misrepresented the conditions of their properties. Specifically, because more points are deducted for deficiencies on the property site than for deficiencies in a dwelling unit, some property owners prioritize site repairs over unit repairs. Additionally, some property owners attempt to cover up, rather than address, deficiencies—such as by using mulch on a building exterior to hide erosion. REAC staff also have raised concerns about property owners employing current or former REAC contract inspectors to help prepare for an inspection, sometimes by guiding owners to repair just enough to pass inspection rather than comprehensively addressing deficiencies. REAC also continues to find that some contract inspectors conduct inspections that do not meet REAC's quality standards.

Furthermore, REAC fundamentally changed the entities that conduct inspections. In 1998, REAC employed a few large inspection companies to conduct the inspections. However, in 2005, REAC introduced the reverse auction program and opened up the inspection process to a larger number of small businesses, which resulted in a change in the composition of inspectors. We found that without a comprehensive review, REAC cannot determine if it has been meeting the goal of producing inspections that are reliable, replicable, and reasonable.

We recommended that REAC conduct a comprehensive review of the physical inspection process, and HUD agreed with this recommendation.

In November 2019, HUD officials told us that they recently completed a comprehensive review of the physical inspection process. In supporting documentation, HUD stated that the current model was insufficient for evaluating HUD-assisted housing when compared to modern expectations of housing quality, and that there is now a need to focus more on health and safety of residents and less on asset preservation and condition and appearance items. We have been assessing HUD's recent review to determine whether it has fully addressed our recommendation.

Incorporating Sampling Errors

We also found that REAC may not be identifying all properties in need of more frequent inspections or enforcement actions because it does not consider sampling errors of the inspection scores. For large properties, REAC inspects a statistical sample of the property's units and buildings rather than all of them. The results for the sample are then used to estimate a score that represents the condition of the entire property. HUD takes enforcement action for multifamily properties with a score below 60. However, sampling introduces a degree of uncertainty, called sampling error, which statisticians commonly express as a range associated with numerical results. For example, for a property that scored 62 on its physical inspection, due to sampling error, the range associated with this score could be between 56 on the lower bound and 68 on the upper bound. REAC would consider this a passing score that requires an annual inspection and no enforcement action, although the lower bound fell below 60.

REAC previously calculated sampling errors but ceased doing so in 2013, according to REAC officials, in part because of a lack of resources and also because they believed there was no need to calculate them. Based on our analysis of REAC inspection data, HUD could have taken enforcement actions against more properties if REAC had taken sampling errors in inspection scores into account. For example, from fiscal years 2002 through 2013, about 4.3 percent of inspections of multifamily and public housing properties had an inspection score of 60 or slightly above 60 but had a lower bound score under 60. Without considering sampling errors when determining whether enforcement action is needed, REAC will not identify some properties that may require more frequent inspections or enforcement actions.

We recommended in our March 2019 report that REAC resume calculating the sampling error associated with the physical inspection score for each property, identify what changes may be needed for HUD to

use sampling error results, and consider those results when determining whether more frequent inspections or enforcement actions would be needed. HUD neither agreed nor disagreed with this recommendation. However, since our report was issued, HUD said that by September 30, 2020, REAC planned to include the standard error calculations in the next version of its scoring software for physical inspections. REAC officials also stated that a task team concluded that the use of sampling error likely would have no impact on any individual enforcement action. However, REAC's statement appears to contradict its own policies because inspection scores alone are used to determine whether some properties are referred for potential enforcement actions. We will continue to monitor REAC's actions regarding this recommendation, including how it uses sampling error results to make decisions about properties.

Selecting, Training, and Evaluating Inspectors

In our March 2019 report, we also found that REAC lacked formal mechanisms to assess the effectiveness of its training program for contractors hired to inspect properties (contract inspectors) and for HUD employees responsible for monitoring and overseeing contract inspectors (quality assurance inspectors). Unlike professional inspection organizations, REAC does not have continuing education requirements. Formal mechanisms to assess the effectiveness of its training program could help REAC ensure that its program supports the development needs of inspectors. Furthermore, requiring continuing education could help REAC ensure that inspectors are current on any changes in REAC's policies or industry standards. We also found weaknesses in REAC's process for evaluating the performance of inspectors, which could hinder its ability to ensure the quality of inspections.

We made a number of recommendations related to the selection, training, and performance evaluation of inspectors. Specifically, we recommended that HUD take the following actions:

- Follow through on REAC's plan to create a process to verify candidate qualifications for contract inspectors—for example, by calling references and requesting documentation from candidates that supports their completion of 250 residential or commercial inspections.
- Develop a process to evaluate the effectiveness of REAC's training program—for example, by reviewing the results of tests or soliciting participant feedback.

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- Revise training for quality assurance inspectors to better reflect their job duties.
 - Develop continuing education requirements for contract and quality assurance inspectors.
 - Review performance standards for quality assurance inspectors and revise them to better reflect the skills and supporting behaviors that quality assurance inspectors need to effectively contribute to REAC's mission.

HUD agreed with these recommendations, and we have been evaluating actions it has taken in response to them since our report was issued. For example, in November 2019, HUD officials said that they were moving toward a model of contracting with larger firms to conduct physical inspections of properties. In this model, HUD plans to put the first level of responsibility on the contractor to do its own due diligence on inspector candidates, and the contractor would be required to review 25 verifiable prior inspections completed by each inspector candidate. A REAC official then would be expected to select a sample of the candidate's inspections to review.

In response to our recommendation about revising training for quality assurance inspectors, REAC said that it recently began requiring a minimum of 8 hours of continuing education annually for all quality assurance staff. As of November 2019, REAC had not yet provided us with information about the subject matter of that training. Since our report was issued, REAC also developed continuing education requirements for contract and quality assurance inspectors, which it said will be required beginning in January 2020. In addition, REAC has developed updated performance standards for quality assurance inspectors, which REAC officials said were under review. REAC considers the new standards to be more aligned with the job responsibilities of quality assurance inspectors.

Meeting Target Dates for Inspections

We also found that REAC did not always meet its schedule for inspecting multifamily properties or track progress toward meeting scheduling requirements. REAC did not meet its schedule for about 20 percent of multifamily property inspections from calendar years 2013 through 2017. On average, REAC conducted inspections for these properties about 6 months past the targeted date. REAC staff told us that there may be legitimate reasons for not conducting an inspection according to the targeted date. For example, the Office of Multifamily Housing, which

oversees the performance of properties that receive project-based assistance, can delay an inspection for reasons such as natural disasters or major rehabilitation to the property. However, REAC maintains limited data on the reasons why inspections have been rescheduled or cancelled. In addition, these data are not readily available to understand retrospectively why an inspection did not occur on schedule. REAC also does not track its progress toward meeting its requirement for inspecting multifamily properties within prescribed time frames.

REAC's inability to adhere to the inspection schedule could hinder the Office of Multifamily Housing's ability to monitor the physical condition of properties on a timely basis and take enforcement actions when warranted. Furthermore, the lack of a mechanism to track REAC's progress toward meeting its requirement for inspecting multifamily properties hinders its ability to determine what factors have contributed to delays in conducting the inspections. In our March 2019 report, we recommended that REAC track on a routine basis whether it conducts inspections of multifamily housing properties in accordance with federal guidelines for scheduling, as well as coordinate with the Office of Multifamily Housing to minimize the number of properties that can cancel or reschedule their physical inspections. HUD partially agreed with this recommendation.

Since our report was issued, REAC officials told us that REAC developed an electronic spreadsheet to better track information about its inspections, and they expect information technology enhancements that would automate the tracking of information about these inspections to be deployed by September 1, 2020. HUD's Office of Multifamily Housing also issued a memorandum in March 2019 that provides guidance on when a field office may approve an owner's request to delay an inspection. We will continue to monitor HUD's actions related to this recommendation.

Implementing New Quality Control Policies and Procedures

In our March 2019 report, we found that REAC had yet to implement policies and procedures for its Quality Control group, which was formed in 2017. REAC created the Quality Control group to standardize quality assurance inspector reviews by conducting more frequent oversight and looking for trends across all quality assurance inspectors, according to a Quality Control official. In November 2018, Quality Control developed a mission statement that says that the primary goal of the group is to improve the consistency of inspections. Also in November 2018, Quality Control developed procedures for reviewing quality assurance inspectors, which include processes for conducting field reviews of completed

inspections, criteria for acceptable inspections, and processes for providing feedback. An official from the group told us both its mission and procedures have not been implemented, in part because Quality Control staff repeatedly have been occupied with other special projects. Without finalizing and implementing its policies and procedures for reviewing quality assurance inspectors, Quality Control may not be able to provide consistent reviews of quality assurance inspectors, which could affect the quality of inspections and the feedback and coaching that quality assurance inspectors provide to contract inspectors.

We recommended that REAC ensure that Quality Control's policies and procedures for overseeing quality assurance inspectors are implemented, and HUD agreed with this recommendation. Since our report was issued, REAC has begun to implement this recommendation by clarifying in writing the roles, responsibilities, and objectives of the Quality Control group, including how the group plans to support changes in REAC's inspection program. In determining the status of our recommendation, we will look for evidence that the group has been consistently implementing its policies and procedures.

**Other Recommendations
and Actions HUD Has
Taken**

In addition, our March 2019 report made several other recommendations regarding the physical inspection process and oversight of inspectors. These recommendations addressed

- documenting the sampling methodology for the inspection process,
- designing and implementing an evaluation plan for assessing the effectiveness of REAC's pilot program for staffing inspections in hard-to-staff geographic areas,
- implementing internal HUD recommendations,
- implementing a plan for meeting management targets for reviews by quality assurance inspectors, and
- reporting to Congress on why the agency has not complied with a Consolidated Appropriations Act requirement.

HUD generally agreed with these recommendations. While HUD has taken some steps, it had not fully addressed them as of November 2019. We have been assessing the actions HUD has taken and will continue to monitor HUD's progress toward implementing these recommendations.

HUD has been undertaking significant changes to the REAC physical inspection program. In a Federal Register notice published on August 21, 2019, HUD said it was soliciting comments on a proposed voluntary demonstration of a new physical inspection process, called the "National Standards for the Physical Inspection of Real Estate."⁷ According to HUD officials, the new inspection model is intended to address issues of inspections not always identifying health and safety conditions and properties with poor unit conditions passing inspections, among other things. HUD officials have said that a transition to the new model may take 2 years or more. HUD also has been taking steps to replace its reverse auction program with a program in which large contractors will be responsible for conducting physical inspections. We will continue to monitor HUD's actions regarding the recommendations, as well as HUD's activities more broadly related to implementing a new inspection model. Full implementation of the recommendations, even as the inspection program undergoes changes, can help REAC to ensure that properties are decent, safe, sanitary, and in good repair.

HUD Needs to Better Monitor Compliance with Lead Paint Regulations and Measure and Report on Performance of Lead Efforts

Our June 2018 report identified a number of areas in which HUD needs to improve its efforts to identify and address lead paint hazards and protect children in low-income housing from lifelong health problems. Among other issues, we identified shortcomings in compliance monitoring and enforcement, inspection standards, and performance assessment and reporting.

Compliance Monitoring and Enforcement

Our June 2018 report noted that HUD began taking steps in 2016 to monitor how PHAs comply with lead paint regulations. These steps included tracking the status of lead inspection reports for public housing properties and PHA-reported information about cases of children with elevated blood lead levels living in voucher and public housing units. However, we also identified several limitations with HUD's monitoring efforts. For example, HUD relies in part on PHAs self-certifying their compliance with lead paint regulations, but investigations found that some

⁷Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols, 84 Fed. Reg. 43536 (Aug. 21, 2019).

PHA officials may have falsely certified that they were in compliance. Also, on-site compliance reviews performed by HUD staff can be used to determine if PHAs are in compliance with these regulations, but HUD performs a limited number of these reviews annually. In fiscal year 2017, HUD conducted these reviews at less than 2 percent of the roughly 4,000 PHAs. Finally, HUD does not have data readily available on the physical condition of the roughly 2.5 million voucher units or these units' compliance with lead paint regulations because the individual PHAs keep these data.

These limitations in HUD's monitoring suggest that HUD may not be fully aware of the extent to which children may live in unsafe units. As a result, we recommended that HUD establish a plan to mitigate and address risks in its lead paint compliance monitoring processes. These actions could further strengthen HUD's oversight and keep PHAs accountable for ensuring that housing units are lead-safe. HUD agreed with the recommendation. As of November 2019, HUD officials told us the agency had taken steps to implement the recommendation, including requiring PHAs to submit appropriate documentation regarding public housing units' compliance with lead paint regulations and updating an internal checklist for on-site compliance reviews that HUD staff conduct. We will continue to monitor HUD's progress in response to our recommendation.

Our 2018 report also found that HUD did not have detailed procedures to address PHA noncompliance with lead paint regulations or to determine when enforcement decisions might be needed. HUD staff stated that they address PHA noncompliance through ongoing communication and technical assistance. However, HUD has not documented specific actions staff should perform when deficiencies are identified. Furthermore, in response to our requests for information on enforcement actions taken, HUD was able to provide information on only one enforcement action, which dated from 2013. As a result, we recommended that HUD develop and document procedures to ensure staff take consistent and timely steps to address issues of PHA noncompliance with lead paint regulations. HUD generally agreed with the recommendation. As of November 2019, HUD officials told us procedures were in draft form and under internal review and were not expected to be finalized until spring 2020. HUD officials noted that the draft procedures could help HUD staff decide when an enforcement action might be appropriate, including determining how long PHAs have to resolve noncompliance.

Inspection Standards

We also found that HUD's Lead Safe Housing Rule requires a stricter lead inspection standard for public housing than for voucher units.⁸ For public housing, inspectors must conduct a risk assessment that includes testing paint chips and dust for the presence of lead paint. For voucher units, inspectors conduct a visual assessment that includes looking for deteriorated paint or visible surface dust but does not include any testing of paint chips or samples. As a result of the different inspection standards in the two programs, children living in voucher units may receive less protection from lead paint hazards than children living in public housing. According to agency officials, HUD does not have the statutory authority to require the more stringent inspection in the voucher program. In our June 2018 report, we recommended that HUD request authority from Congress to use the stricter lead inspection standard in the voucher program as indicated by analysis of health effects for children, the impact on landlord participation in the program, and other relevant factors.⁹

In August 2018, HUD officials told us that they planned to convene a working group to design and conduct a statistically rigorous study on the impact of risk assessments to help decide whether to support statutory change for greater flexibility in strengthening inspection standards for pre-1978 units under the voucher program. Such an analysis could be useful in evaluating the potential benefits and risks of a change in the voucher program, and we will continue to monitor the progress made by the working group. As of November 2019, HUD officials told us they were working on a demonstration proposal to test an alternative inspection standard in the voucher program. The officials noted that details of the demonstration proposal were not currently available. Separately, we have ongoing work reviewing possible changes in the inspection standard for

⁸For public housing units, if an inspection identifies lead-based paint, PHAs must perform a risk assessment that includes an inspector testing for the presence of lead paint by collecting and testing samples of paint chips and surface dust and typically using a specialized device (an X-ray fluorescence analyzer) to measure the amount of lead in the paint. For voucher units, HUD requires PHAs to ensure that trained inspectors conduct visual assessments to identify deteriorated paint and visible surface dust for housing units inhabited by a child under 6 years old but does not require them to test paint chips or dust samples to determine the presence of lead.

⁹HUD disagreed with a recommendation in a draft of our June 2018 report that it should request authority from Congress to use a specific, stricter inspection standard. We revised the recommendation for the final report to allow HUD greater flexibility to amend its current inspection standard as indicated by analysis of health effects for children, the impact on landlord participation in the program, and other relevant factors.

the voucher program. This work started in September 2019 and will include an in-depth review of the impact a change in the inspection standard may have on the cost and length of time of inspections, as well as the impact on landlords and families participating in the voucher program.

Performance Assessment and Reporting

Our June 2018 report also identified weaknesses in HUD's performance assessment of and reporting on its lead-safety efforts. We found that HUD had taken limited steps to measure, evaluate, and report on the performance of its programmatic efforts to ensure that housing is lead-safe. First, HUD lacked comprehensive goals and performance measures for its lead-reduction efforts. We found that HUD did not track the number of housing units in the voucher or public housing programs that were lead-safe. At the time of our report, HUD officials told us that the agency did not have systems to count the number of housing units made lead-safe in these two programs. HUD had begun discussing whether existing databases could be used to count lead-safe housing units but did not provided us with details at that time. Second, HUD had not formalized plans and did not have a time frame for evaluating the effectiveness of its lead paint regulations. Third, it had not complied with annual statutory reporting requirements and last reported on its lead efforts in 1997. We noted that by improving its measurement of whether its housing is lead-safe and evaluating and reporting on its efforts, HUD will be better positioned to inform Congress and the public about its progress toward ensuring that housing is lead-safe for residents.

As a result of these findings, we recommended that HUD develop performance goals and measures, including a measure to track its efforts to ensure that housing units in its rental assistance programs were lead-safe. Additionally, we recommended that HUD finalize plans for evaluating the effectiveness of its lead paint regulations. Finally, we recommended that HUD complete statutory reporting requirements and make the reports publicly available. HUD generally agreed with these recommendations.

In August 2018, HUD told us that it would use existing data systems to begin to establish a baseline for reporting lead-safe housing units in its rental assistance programs. As of November 2019, HUD officials told us they still were exploring whether current data systems could be used to count the number of lead-safe housing units in HUD's rental assistance programs. According to HUD officials, for public housing, HUD has made progress in counting housing units that have been made lead-safe using

funds from the Lead-Based Paint Capital Fund Program.¹⁰ However, officials told us data will not be available until spring 2020. To evaluate the effectiveness of lead paint regulations, in November 2019 HUD officials told us they planned to use data from the forthcoming update to the American Healthy Homes Survey to better estimate the prevalence of lead paint hazards in federally assisted housing. However, officials told us the findings from the updated survey likely would not be available until summer 2020. With respect to complying with statutory reporting requirements, in November 2019, HUD officials told us they planned to issue a report to Congress on the agency's lead efforts in early 2020. We will continue to monitor HUD's efforts to implement these recommendations.

In summary, it is essential to strengthen HUD's oversight and keep PHAs accountable for ensuring that housing units are lead-safe because children continue to test positive for lead while living in HUD-assisted housing. As of November 2019, HUD officials told us they continue to learn of confirmed cases of children testing positive for lead while living in HUD-assisted housing because PHAs are required to record the cases in a HUD database.¹¹ We maintain that improvements to the areas noted in this statement today will help HUD better protect children from lifelong health problems.

Chairman Clay, Ranking Member Stivers, and Members of the Subcommittee, this concludes my statement for the record.

¹⁰The purpose of the Lead-Based Paint Capital Fund Program is to help PHAs identify and eliminate lead paint hazards in public housing. The 2017 Consolidated Appropriations Act made \$25 million available for competitive grants to PHAs to evaluate and reduce lead-based paint hazards in public housing.

¹¹In 2017, HUD began to record information from PHAs on children with elevated blood lead levels residing in HUD-assisted housing. The database is known as the Elevated Blood Lead Level Tracker. According to HUD staff, this tracker was created to help HUD monitor PHA compliance with new requirements noted in a January 2017 amendment to the Lead Safe Housing Rule. See Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, 82 Fed. Reg. 4151 (Jan. 13, 2017). In a March 2018 report to Congress, HUD noted that children who live in HUD-assisted housing continue to test positive for lead. See the Department of Housing and Urban Development, Office of Public and Indian Housing and Office of Lead Hazard Control and Healthy Homes, *Report to Congress: HUD Oversight of the Lead Safe Housing Rule for the Public Housing and Housing Choice Voucher Programs* (March 2018).

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TESTIMONY OF
HEALTH JUSTICE ADVOCACY CLINIC
COLUMBIA LAW SCHOOL

SUBMITTED BY
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BEFORE THE SUBCOMMITTEE ON HOUSING, COMMUNITY
DEVELOPMENT, AND INSURANCE
UNITED STATES HOUSE OF REPRESENTATIVES

“SAFE AND DECENT? EXAMINING THE CURRENT STATE OF
RESIDENTS’ HEALTH AND SAFETY IN HUD HOUSING”

NOVEMBER 20, 2019

**Testimony of
Health Justice Advocacy Clinic
Columbia University Law School**

**Submitted by
Emily A. Benfer, Courtney Bibbs, Samantha Braver,
Connie Lee, Bridget Morse-Karzen, Nika Sabasteanski, and Jessie Sennett**

**Before the Subcommittee on Housing, Community Development, and Insurance
United States House of Representatives**

**“Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD
Housing”**

November 20, 2019

I. Introduction

Chairman Clay, Ranking Member Stivers, and Members of the Committee, thank you for the opportunity to submit testimony on the issue of health hazards in federally assisted housing as well as policy gaps in affordable housing. In the Health Justice Advocacy Clinic at Columbia Law School, law and public health students address the social and legal causes of poor health among low-income people and communities. Emily A. Benfer, Visiting Associate Clinical Professor of Law, directs the Health Justice Advocacy Clinic and is a national expert in healthy and affordable housing, lead poisoning prevention, and health justice strategies.¹

The Health Justice Advocacy Clinic has conducted extensive research and analysis on the extent of, and methods for, eliminating health hazards in federally assisted housing. In addition, the Clinic has collaborated with scientists, pediatricians, public health experts, housing advocates and local communities to better understand the issue and devise effective interventions to protect the health of low-income residents. Based on Emily Benfer’s experience and our collective research, it is our assessment that the U.S. Department of Housing and Urban Development (HUD) has failed to protect children and individuals in federally assisted housing from health harming environmental hazards due to lack of: expeditious action by the agency to engage in primary prevention strategies; oversight, compliance and long-term plans necessary to ensure health and safety of residents, especially children; and funding to improve conditions.

Without express direction from Congress, it is clear that HUD will not and *cannot* guard against exposure to life threatening conditions in federal housing. Namely, current federal law does not protect all federal housing residents from exposure to housing and environmental hazards, including lead hazards, radon, respiratory inhibitors like mold and infestations, and carbon monoxide, among other toxins and carcinogens. While additional measures are also necessary to address radon and mold exposure, the bipartisan Lead Safe Housing for Kids Act (S. 1583) and the bipartisan and bicameral Carbon Monoxide Alarms Leading Every Resident to Safety (CO ALERTS) Act (H.R. 1690/S. 2160) present cost-effective solutions to eliminate unnecessary death and disability in federally assisted housing related to lead and carbon monoxide poisoning.

Ultimately, it is critical that the federal government provide safe and sanitary housing support to

the most vulnerable Americans. Much of the legislation discussed in the U.S. House of Representatives, Subcommittee on Housing, Community Development, and Insurance hearing, “Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD Housing,” dealt with specific hazards in federally assisted housing, including lead, as well as overall safety through mandated inspections and tenant empowerment. Congress must direct HUD to immediately address all health hazards in federal housing programs. Specifically, the most toxic and rampant hazards affecting tenants in HUD housing today include lead, carbon monoxide, radon, and allergens that lead to asthma.

II. Carbon Monoxide in Federally Assisted Housing Results in Death and Permanent and Severe Health Impairments for Residents

A. Residents of Federally Assisted Housing are at Risk of Carbon Monoxide Poisoning and Death Due to Lack of Carbon Monoxide Alarms

In 2019, four public housing residents died from carbon monoxide poisoning. Gwendolyn and Anthony Fleming in Michigan were grandparents who had been married for 35 years. Mr. Fleming was a retired biomedical technician who had worked at the local children’s hospital, and Mrs. Fleming had been a surgical technologist. In South Carolina, Derrick Roper was a maintenance worker at a historically black school and Calvin Witherspoon had been a construction worker until he suffered a stroke from carbon monoxide exposure.²

These deaths point to the growing public health threat of carbon monoxide poisoning in federally assisted housing. Since 2003, at least 13 public housing residents have died of carbon monoxide poisoning. This year’s deaths alone account for a quarter of this number. The actual number of deaths may be even higher due to underreporting.³ Nationally, non-fire carbon monoxide poisoning is responsible for at least 430 deaths and 50,000 emergency department visits annually.⁴ All people are at risk for carbon monoxide poisoning, but children, the elderly, and people with disabilities are at the greatest risk.⁵ The majority of the 4.6 million individuals and families in federally assisted housing include members from these vulnerable groups.⁶ Despite the high risk, federal law does not require life-saving carbon monoxide alarms in federally assisted housing.⁷

Carbon monoxide alarms are essential to detection because carbon monoxide is a toxic gas that cannot be seen, smelled, or tasted. Because carbon monoxide has deadly consequences but cannot be readily identified, it is referred to as the “silent killer” among public health officials.⁸ Carbon monoxide is produced whenever fuel, such as gas, oil, kerosene, wood, or charcoal, is burned. Many items commonly found in federally assisted homes can be sources of carbon monoxide, including clothes dryers, water heaters, furnaces, boilers, grills, fireplaces, and any other fuel-burning appliances.⁹

Exposure to carbon monoxide can cause headaches, nausea, vomiting, blurred vision, chest pain, seizures, irreversible brain damage, and death. Symptoms of carbon monoxide poisoning can mirror those of other illnesses, such as the flu or food poisoning, so it’s often misdiagnosed until it is too late. Exposure can kill victims before they notice any symptoms.¹⁰ Where carbon monoxide does not lead to death, it can result in brain damage, reduced pulmonary functions, cardiovascular effects including heart attacks and cardiac arrhythmias.¹¹

B. To Protect Residents from Death and Disability, Congress Should Require the Installation of Carbon Monoxide Alarms in All Federally Assisted Housing

We commend the U.S. House of Representatives for passing the CO ALERTS Act (H.R. 1690) and urge the U.S. Senate to advance the as swiftly as possible to prevent further death and disability this winter and in the future.

While smoke detectors are required in federally assisted housing,¹² the U.S. Department of Housing and Urban Development (HUD) only requires carbon monoxide alarms in a very limited number of voucher units. (See Table 1) In October 2017, HUD issued regulations pursuant to the Housing Opportunity Through Modernization Act of 2016 that allow PHAs to classify inoperable or missing carbon monoxide detectors as “life-threatening” violations of the Housing Quality Standards for the Housing Choice Voucher and Project-Based voucher assistance programs. In addition, the Universal Physical Conditions Standards–Voucher demonstration project includes the lack of functional carbon monoxide detectors as a life-threatening condition.¹³ Although HUD’s Housing Choice Voucher Program regulations address carbon monoxide in the “acceptability criteria” for indoor air quality, HUD does not require carbon monoxide alarms.¹⁴ HUD’s incorporation of carbon monoxide detectors in its tenant-based rental assistance policies represents the agency’s acknowledgement of the life-threatening danger of carbon monoxide exposure. It is critical that Congress require HUD to extend carbon monoxide protections to all federally assisted housing units in order to fulfill the statutory duty to provide safe and decent housing before more lives are lost.

Housing Program	Responsible Party	CO Alarms Required	Source of Requirement
Public Housing	Public Housing Authority	No	No requirement until CO ALERTS passes
Rural Housing	U.S. Department of Agriculture	No	No requirement until CO ALERTS passes
Supportive Housing for Persons with Disabilities	Property Owner/Manager	No	No requirement until CO ALERTS passes
Supportive Housing for the Elderly	Property Owner/Manager	No	No requirement until CO ALERTS passes
Project-Based Section 8	Property Owner/Manager	No	No requirement until CO ALERTS passes
Housing Choice Voucher Program	Public Housing Authority and/or Property Owner/Manager	Yes, for a very limited number of units	Housing Quality Standards (HOTMA 2016); Universal Physical Conditions Standards-Voucher Demonstration

Table 1: Current Carbon Monoxide Alarm Requirements in Federal Housing Program

HUD has publicly acknowledged the importance of mandating alarms. Secretary Ben Carson testified to Congress that the lack of a federal requirement for carbon monoxide alarms in federally assisted housing is “wrong” and “regrettabl[e].”¹⁵ HUD expressed the intent to begin formal rulemaking to require carbon monoxide alarms across its housing programs,¹⁶ but the process requires time-consuming steps, including a public comment period and Executive approval.¹⁷ HUD has yet to unveil a proposal, and has stated that it cannot move any faster until Congress passes legislation requiring carbon monoxide alarms in federally assisted housing.¹⁸

Almost seventy-five percent of states (37) and Washington, D.C. have statutory or regulatory requirements for carbon monoxide alarms in private housing.¹⁹ Even for states that mandate carbon monoxide alarms, enforcement of any requirement in federally assisted housing is the responsibility of public housing authorities. Most localities rely on HUD or its designee to inspect federally assisted housing units. Without an inspection requirement for working carbon monoxide alarms outside of the pilot inspection program, residents remain at risk of exposure to the toxic gas.²⁰ In fact, all of the carbon monoxide-related deaths in public housing in 2019 occurred in states that require carbon monoxide alarms, demonstrating the life-threatening consequences of this gap in enforcement.²¹

The CO ALERTS Act (S. 2160) appropriates necessary funds over five years to install carbon monoxide alarms in federally assisted housing. The Act requires carbon monoxide alarms to be installed in housing that receives public assistance (Sec. 3), project- and tenant-based assistance (Sec. 8), assistance for the elderly (Sec. 202), and assistance for persons with disabilities (Sec. 811). In these types of housing, carbon monoxide alarms must be in any dwelling unit with a fuel-burning appliance, fireplace, furnace, or connection to a garage. These requirements are set by the widely-adopted 2018 International Fire Code, which allows the requirement to index to the most up to date science and best practices for protecting human life and health.

Carbon monoxide will continue to put the lives of federally assisted housing residents, including children, the elderly, people with disabilities, and additional individuals and families, at risk of disability and death. Carbon monoxide poisoning and death are entirely preventable by requiring carbon monoxide alarms. The lack of a uniform federal requirement for carbon monoxide alarms in federally assisted housing has created gaps in enforcement and funding that lead to deaths like the four that occurred this year. The CO ALERTS Act closes this gap by creating a lifesaving federal requirement for carbon monoxide alarms in federally assisted housing.

III. Children in Federally Assisted Housing Are at High Risk of Lead Poisoning and the Comorbidities Due to Lack of Primary Prevention Policies

A. Lead Poisoning Results in Severe and Irreversible Harm to the Health of Children in Federally Assisted Housing

The Centers for Disease Control and Prevention (CDC), the Environmental Protection Agency, HUD, and over 6,000 scientific studies have documented that there is no safe level of lead in the blood and children require a wide margin of safety. For this reason, the CDC has adopted a policy of primary prevention of lead poisoning, wherein lead hazards must be identified *before* a child is exposed to the neurotoxin and develops lead poisoning. According to the Centers for Disease Control and Prevention (“CDC”), 4.10% of children under six in the

United States had blood lead levels above the CDC reference level of 5 micrograms per deciliter (µg/dL) in 2014 (the most recent comprehensive data).²² Applying this percentage to the country's under six population, it is estimated that approximately 995,609 children are likely to have elevated blood lead levels (EBLL) above the CDC's reference value.²³

According to HUD, "a considerable number of children under age six (6) currently reside in HUD-assisted housing units that contain lead-based paint."²⁴ People living in federally assisted housing are susceptible to lead poisoning because many of the units were built before lead paint was banned and the home is not maintained or the units are located in areas with elevated risk of lead poisoning.²⁵ HUD estimates that 450,000 housing units within the federal assistance programs were built before 1978, which increases the likelihood of lead-based paint content, and occupied by children under the age of six.²⁶ 340,000 units receiving tenant-based and project-based assistance are occupied by children under age six and were built before 1978, when lead-based paint was still legal in the United States.²⁷ Of those, 43,000 units have uncontrolled lead hazards and place children at elevated risk of lead poisoning.²⁸ Within the Housing Choice Voucher program, 90,416 children under the age of six are estimated to have elevated blood lead levels above the CDC's threshold on an annual basis.²⁹ Of greatest concern, this poisoning is entirely preventable.

According to a 2017 report from the Health Impact Project (HIP), children who have been lead poisoned "are more likely to struggle in school, drop out, get into trouble with the law, underperform in the workplace, and earn less throughout their lives, independent of other social and economic factors. And while secondary in importance to the health impacts, the financial consequences of these outcomes include billions of dollars in public spending on special education, juvenile justice, and other social services."³⁰ Even at the lowest levels of exposure, lead poisoning causes grave and permanent neurological and biological consequences. Lead impacts the central nervous system directly, crossing the blood-brain-barrier, a semipermeable membrane that under normal circumstances prevents toxins in the circulating bloodstream from entering the brain. Lead exposure affects most major bodily systems and results in long-term poor health effects and medical disorders, including hypertension and stroke, renal problems, anemia, reproductive health issues and neurological problems. In addition, lead poisoning can result in developmental and behavioral problems, such as learning disabilities, behavioral problems like ADHD, decreased IQ and brain damage. In some cases of acute lead poisoning, immediate death may ensue, and chronic lead poisoning may cause premature death.³¹

Lead poisoning also has a staggering and direct cost to society. On an annual basis, for one cohort (group) of children, lead poisoning costs the United States \$10,946,872,798.85 in the direct costs of immediate medical care for the treatment of lead poisoning (\$8,666,451.30), treatment for lead-related ADHD (\$58,079,667.82), parental work loss (\$37,546,274.31), special education (\$26,091,794.82), and lost lifetime earnings (\$10,816,488,610.61), among other costs.³² These costs repeat on an annual basis.

B. Eliminate the Risk of Lead Poisoning in Federally Assisted Housing

Currently, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4822) and the Lead Safe Housing Rule (42 C.F.R. § 35) only require a pre-rental lead hazard risk assessment in select federally assisted housing: public housing, housing covered by mortgage insurance, and properties receiving more than \$5,000 in project-based rental assistance under a federal housing program. Despite the known dangers of lead poisoning and its disabling effects on children,

federal law arbitrarily leaves children living in the HCV program and project-based Section 8 housing receiving less than \$5,000 in rental assistance unprotected from lead hazards. Instead of pre-rental lead hazard risk assessments, current federal law only requires that housing units in these programs undergo an ineffective “visual” assessment, which cannot identify the majority of lead hazards present in dust, soil, or paint. As a result of the visual assessment requirement, children living in these federally assisted housing programs are disproportionately at risk: they must develop lead poisoning *before* any meaningful lead hazard inspection is required. For decades, HUD has required all other federally assisted housing programs undergo some form of pre-rental lead hazard inspections, yet children in HCV and the specified project-based housing remain unprotected. For this reason, in 2016, HUD developed a lead-safe toolkit that recognized the danger of reliance on visual-only inspections.³³ However, HUD has taken no further action.

This gap in policy leaves many children in danger of developing lead poisoning. The United States Government Accountability Office (GAO) issued reports in June 2018 and March 2019 that recommended increased oversight of lead paint hazards and strengthening of physical inspection requirements in federally assisted housing.³⁴ The GAO reiterated these necessities in a recently released statement for the Congressional record on November 20, 2019, in which it noted that HUD had yet to meaningfully respond to its 2018 recommendations.³⁵

The Lead-Safe Housing for Kids Act, which has yet to be reintroduced in the U.S. House of Representatives this session, will extend the protection of preventative pre-rental risk assessments to children in *all* federally assisted housing. The Act amends the Lead-Based Paint Poisoning Prevention Act by:

1. Requiring risk assessments that identify lead hazards in all pre-1978 federally assisted housing prior to occupancy by a child under age 6 (excluding housing covered by federal mortgage insurance); and
2. Allowing families to relocate on an emergency basis from a unit with an uncontrolled lead hazard without losing their housing assistance; and
3. Authorizing the appropriations necessary to carry out amendments made by the Act.

The Lead-Safe Housing for Kids Act streamlines federal policy and represents a practical solution to a policy that disproportionately puts children at risk of lead poisoning in the HCV program and project-based Section 8 housing receiving less than \$5,000 in assistance. The Act represents an opportunity for Congress to adopt a primary prevention approach to lead poisoning in all federally assisted housing. Because lead poisoning cannot be “cured,” the only way to protect children is to prevent them from being exposed to lead hazards whatsoever.³⁶ The Lead-Safe Housing for Kids Act will give all children in federally assisted housing the chance to reach their fullest potential.

IV. Residents in Federally Assisted Housing Remain at Risk of Cancer and other Severe Negative Health Outcomes from Radon Exposure

A. Radon Exposure Is One of the Leading Causes of Lung Cancer

Similar to carbon monoxide, radon is a gas that cannot be seen, tasted, or smelled.³⁷

Radon occurs naturally in rocks, soil, and groundwater as the product of the radioactive decay of uranium.³⁸ Radon can enter the home through foundation cracks, soil, crawlspaces, floors, and walls, which can lead to exposure.³⁹ In fact, people are primarily exposed to radon through inhaling it from the air, both directly and indirectly.⁴⁰ Inadvertent exposure to radon is concerning because it has severe health consequences. According to the EPA, radon is the second leading cause of lung cancer, one of the deadliest cancers, behind smoking.⁴¹ In non-smokers, radon takes the lead as the top cause of lung cancer, causing an estimated 21,000 deaths each year.⁴² As the concentration of radon in the air increases, so does the risk of contracting lung cancer from radon.

Despite the threat of radon exposure, HUD has taken no action to require radon testing and remediation in federally assisted housing. Due to this lack of action on radon safety, “[m]ore than 400,000 public housing residents live in areas at gravest risk for indoor exposure to the carcinogen,” according to a recent analysis of federal data by The Oregonian/OregonLive.⁴³ The report noted that the majority of public housing authorities are unwilling to take any protective measures to prevent radon exposure, because it is not mandated by HUD or Congress.

B. Congress Should Require Radon Testing and Mitigation in Federally Assisted Housing Programs to Prevent Radiation and Cancer Among Residents

In 1988, Congress directed HUD to issue a policy to ensure that public housing tenants are not exposed to hazardous levels of radon, after the Government Accountability Office determined that HUD’s approach to radon was piecemeal at best.⁴⁴ HUD’s most recent official guidance on radon safety is from January 31, 2013, nearly seven years ago.⁴⁵ HUD issued this housing notice for the purpose of supplementing the Environment Review Requirements of Chapter 9 of the Multifamily Accelerated Processing (MAP) Guide to include a radon assessment.⁴⁶ HUD’s guidance outlines requirements for the process of identification and mitigation of radon in units associated with Federal Housing Administration (FHA) Multifamily Insured mortgage applications.⁴⁷ Some of the requirements include completion of a radon report for all applications as well as testing and mitigation to be conducted by a licensed radon professional.⁴⁸ The only other HUD notice on radon, issued on February 4, 2013, informed public housing authorities administering the HCV and/or public housing programs about the dangers of radon.⁴⁹ HUD’s notice to public housing authorities did not include any required testing or mitigation procedures. Instead, HUD “strongly encouraged” the PHAs to plan radon testing and mitigation if possible.⁵⁰

In 2011, the Federal Radon Action Plan (FRAP) was released through a collaborative effort between federal agencies such as the EPA, HHS, and HUD, among others.⁵¹ FRAP articulated radon objectives to further the “Healthy People 2020” initiative, a ten-year national agenda for improving the health of Americans.⁵² FRAP’s main objectives were professionally testing and mitigating high radon, providing financial incentives and direct support for radon risk reduction, and calling attention to the importance and feasibility of radon risk reduction.⁵³ The National Radon Action Plan (NRAP), released in 2015, expands on the FRAP by identifying the goal of “building in” radon risk reduction as standard procedure.⁵⁴ NRAP stated the goal to mitigate radon risk in five million homes by the year 2020⁵⁵, but as of November 2019 HUD still has not issued requirements for radon testing and mitigation in HUD-assisted housing.

HUD maintains that without authority from Congress it cannot require radon testing or remediation in federally assisted housing. It is critical that Congress direct HUD to protect federal housing residents from radon exposure.

V. Allergens in Federally Assisted Housing Can Result in or Exacerbate Asthma and Other Health Problems for Residents

A. Allergens and Asthma in Federally Assisted Housing

Asthma is among the leading adverse health consequences of substandard housing conditions and the most common chronic pediatric disease in the United States.⁵⁶ Nationally, asthma affects 6.1 million children and 16.5 million adults.⁵⁷ Children living in poverty are more likely to be diagnosed, to experience more severe symptoms, and to have ongoing asthma symptoms than their more affluent peers.⁵⁸ Substandard housing conditions offer a variety of allergens, such as the presence of cockroaches, rodents, mold, leaks, and poor air quality, which often create common asthma triggers.⁵⁹ A study of the 2011 U.S. Census Bureau report found that public housing residents are four times as likely to have roach infestations and three times as likely to have leaks than private rental apartments.⁶⁰ Another study found that low-income public housing residents in Illinois experienced poor housing conditions that cause asthma at extremely high rates: fifty percent of residents experienced a cockroach infestation, thirty-three percent lived with mold or mildew, twenty percent endured a rodent infestation, and thirty-three percent had plumbing problems.⁶¹ Public Housing and HCV program residents across the country suffer the adverse consequences of mold.⁶²

The ability of asthma to affect and limit activities can be severe. Among adults, twenty-five percent with asthma are unable to work or carry out activities of daily living; asthma alone caused 14.2 million missed days of work. For children, asthma is the leading cause of school absences.⁶³ In 2008, there were 10.5 million missed days of school due to asthma.⁶⁴ In some cities, school absences are a basis for termination from public housing.⁶⁵ The economic cost of asthma as a result of medical expenses, lost work, missed school days, and premature death is estimated at as much as \$56 billion.⁶⁶ Despite highly effective treatment guidelines for asthma, the overall morbidity (attack rates, emergency department visits, and 5 hospitalizations) and mortality rates among children have not decreased.[xii] It is irrefutable that environmental hazards—especially in housing—have devastating consequences for health, even when effective treatment options are available.⁶⁷

B. Address the Underlying Causes of Allergens in Federally Assisted Housing Before Occupants Suffer Irreversible Health Harms

Housing Quality Standards require that infestations be addressed and mold on walls, ceilings or in bathrooms must be “corrected” or replaced.⁶⁸ The Universal Physical Condition Standards (UPCS) includes an inspection for evidence of infestations and leaks, mold, or mildew less than 1 square foot (level 1), between 1 and 4 square feet (level 2), or more than 4 square foot (level 3) and the UPCS-V inspection includes a pass/fail option for the presence of mold. In many public housing and tenant-based assistance programs, the common remedy for mold is painting over or washing the area and for infestations, setting traps or spraying rather than addressing the root cause. Exposure to infestations, mold and mildew can result in asthma,

severe respiratory distress, allergic reactions, infection. It is critical that housing authorities address the underlying cause of the infestations and mold, such as leaks, uninsulated pipes, and lack of ventilation to protect the health of residents. PHAs must use licensed professionals, plumbers and mold remediators to diagnose and address underlying plumbing problems or leaks causing mold and moisture, remove walls, ceilings and flooring with mold or moisture, minimize residents exposure to infestations and rodents, among other measures.⁶⁹ To protect residents from further harm, temporary relocation should be offered during prolonged repairs.

VI. Conclusion

Carbon monoxide poisoning, lead poisoning, radon exposure and environmentally induced asthma lead to serious disability and/or death and they are all *entirely preventable*. For federally assisted housing tenants, housing is a bridge to opportunity, but only if the federal government ensures that it is safe and sanitary for children and adults. As Deborah Thrope of the National Housing Law Project said in her testimony on November 20th, “The connection between poor housing conditions and negative health outcomes is devastatingly clear. Congress must act now to implement policies that directly address housing conditions for all families living in federally assisted housing.” The CO ALERTS Act (H.R. 1690/S. 2160) and the Lead-Safe Housing for Kids Act (S. 1583) represent common-sense solutions to significant gaps in federal carbon monoxide and lead poisoning prevention policies, and provide a clear path to preserving the safety and wellbeing of all people who live in federally assisted housing. Congress must act swiftly to assess and respond to all of the hazardous conditions, including allergens and radon, that thwart the purpose of federally assisted housing and propel the most vulnerable Americans on a downward trajectory. Federal housing must be healthy housing if it is to fulfill its purpose of creating strong, sustainable, inclusive communities.

¹ Emily A. Benfer, Columbia Law School, <https://www.law.columbia.edu/faculty/emily-benfer>.

² Suzy Khimm, “How Many More People Have to Die?” Carbon Monoxide Kills Two More in HUD Housing,” NBC NEWS (May 3, 2019), <https://www.nbcnews.com/politics/white-house/how-many-more-people-have-die-carbon-monoxide-kills-two-n1001146>.

³ *Id.* The tally only counts the deaths uncovered through a 2019 NBC News investigation, as HUD does not keep an official record.

⁴ “Carbon Monoxide Poisoning: Frequently Asked Questions,” CENTERS FOR DISEASE CONTROL AND PREVENTION, (March 21, 2018), <https://www.cdc.gov/co/faqs.htm>.

⁵ *Id.*

⁶ Alicia Mazzara & Barbara Sard, “Chart Book: Employment and Earnings for Households Receiving Federal Rental Assistance,” CENTER ON BUDGET AND POLICY PRIORITIES (Feb. 5, 2018), <https://www.cbpp.org/research/housing/chart-book-employment-and-earnings-for-households-receiving-federal-rental>.

⁷ Suzy Khimm & Laura Strickler, “Carbon Monoxide is Killing Public Housing Residents, but HUD Doesn’t Require Detectors,” NBC NEWS (March 1, 2019), <https://www.nbcnews.com/news/us-news/carbon-monoxide-killing-public-housing-residents-hud-doesn-t-require-n977896>.

⁸ “Fact Sheet: What You Need to Know About Carbon Monoxide,” NEW YORK STATE DEP’T OF HEALTH (2012), <https://www.health.ny.gov/publications/2826.pdf>.

⁹ “Carbon Monoxide (CO) Poisoning Prevention,” CENTERS FOR DISEASE CONTROL AND PREVENTION (Jan. 21, 2019), <https://www.cdc.gov/features/copoisoning/index.html>.

¹⁰ “About Carbon Monoxide,” U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT, https://www.hud.gov/program_offices/healthy_homes/healthyhomes/carbonmonoxide.

¹¹ Wilbur S, Williams M, Williams R, et al. Toxicological Profile for Carbon Monoxide. Atlanta (GA): Agency for

Toxic Substances and Disease Registry (US); 2012 Jun. 3, HEALTH EFFECTS. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK153687/>

¹² U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HANDBOOK 4350.1 CHAPTER 35: SMOKE DETECTORS, https://www.hud.gov/sites/documents/doc_35331.pdf.

¹³ U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HUD CARBON MONOXIDE NOTICE TO INSPECTORS No. 2019-01 (March 25, 2019), <https://www.documentcloud.org/documents/5783959-Carbon-Monoxide-Notice-2019-01.html>.

¹⁴ "The dwelling unit must be free from dangerous air pollution levels from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants." 24 C.F.R. §982.401(h)(2)(i)

¹⁵ Secretary Ben Carson, U.S. Dep't of Housing and Urban Development, Testimony to the House Committee on Financial Services (May 21, 2019), <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-carsonsmdb-20190521.pdf>.

¹⁶ Suzy Khimm, "Ben Carson Acknowledges HUD Fell Short on Carbon Monoxide Protections: 'That's Wrong,'" NBC NEWS (May 21, 2019), <https://www.nbcnews.com/politics/white-house/ben-carson-acknowledges-hud-fell-short-carbon-monoxide-protections-s-n1008521>

¹⁷ Federal agencies must follow the formal rulemaking process to make substantive policy changes under the Administrative Procedure Act, 5 U.S.C. Ch. 5. The process requires White House approval, a public comment period, and other time-consuming steps. Furthermore, legislation would be harder for a new administration to potentially undo, compared to a HUD rule. A non-final agency rule can be immediately halted by a new President; a final rule can be repealed through a new rulemaking process or more expeditiously by the President and Congress under the Congressional Review Act. See Maeve P. Carey, "Can a New Administration Undo a Previous Administration's Legislation?" CRS INSIGHT (Nov. 21, 2016), <https://fas.org/sgp/crs/misc/IN10611.pdf>.

¹⁸ Khimm, *supra* note 14.

¹⁹ "Carbon Monoxide Detector Requirements, Laws, and Regulations," NATIONAL CONFERENCE OF STATE LEGISLATURES, (March 27, 2018), <http://www.ncsl.org/research/environment-and-natural-resources/carbon-monoxide-detectors-state-statutes.aspx>. 26 states and D.C. require CO alarms or detectors in private housing by statute. These states are Alaska, California, Colorado, Connecticut, D.C., Florida, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Washington, West Virginia and Wisconsin. 11 states require CO alarms or detectors regulatorily through adoption of the International Residential Code or through amendments to state building codes. These states are Alabama, Georgia, Idaho, Kentucky, Louisiana, New Mexico, North Dakota, Oklahoma, South Carolina, Virginia, and Wyoming.

²⁰ Khimm, *supra* note 6.

²¹ Khimm, *supra* note 1.

²² In 2014, the most recent year for complete CDC data, 102,447 of the 2,496,140 tested children younger than 72 months had BLL above 5 µg/dL (4.10%). However, not all children are tested for lead. Assuming that these rates of EBLL prevalence apply to all children under 72 months of age in the US yields an estimate of 995,609 EBLL children nationwide, not including children over 72 months of age. This estimate provides an upper bound for the number of children with BLL over 5 µg/dL, since testing rates are typically higher among higher risk children. Centers for Disease Control and Prevention, *Number of Children Tested and Confirmed BLL's ≥10 µg/dL by State, Year, and BLL Group, Children < 72 Months Old*, https://www.cdc.gov/nceh/lead/data/Website_StateConfirmedByYear_1997_2014_01112016.htm (last visited Nov. 11, 2019).

²³ *Id.*

²⁴ Final Lead Safe Housing rule 2017

²⁵ Bryce Covert, *We Know How To Stop The Epidemic of Lead Poisoning. So Why Aren't We?*, THINKPROGRESS (Mar. 24, 2016, 9:38 AM), <https://thinkprogress.org/we-know-how-to-stop-the-epidemic-of-lead-poisoning-so-why-arent-we-a4c618d26f91#.di5ibtma>

²⁶ Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, 64 Fed. Reg. 60,304 (Sept. 1, 2016).

²⁷ Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Levels, 81 Fed. Reg. 60304 (proposed Sept. 1, 2016).

²⁸ *Id.*

²⁹ According to the National and State Housing Fact Sheets and Data from the Center on Budget and Policy Priorities, 2,203,000 children under 5 are part of the the US's HCV program.

<https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data> To calculate the number of children who are estimated to be lead poisoned, we used the CDC rate of 1.07% to determine the prevalence of lead poisoning in the nation.

³⁰http://www.pewtrusts.org/~media/assets/2017/08/hip_childhood_lead_poisoning_report.pdf

³¹ Flora G, Gupta D, Tiwari A. Toxicity of lead: A review with recent updates. *Interdiscip Toxicol*. 2012;5(2):47–58. doi:10.2478/v10102-012-0009-2

³² Additional information on the Cost Benefit Analysis for the United States can be found at https://www.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/usa_cba.pdf From endnote vi to x.

³³ “Lead-Safe Homes, Lead-Free Kids Toolkit,” U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT, <https://archives.hud.gov/news/2016/pr16-089-HUDLeadToolkitFACTSHEET.pdf>.

³⁴ See *Real Estate Assessment Center: HUD Should Improve Physical Inspection Process and Oversight of Inspectors*, U.S. OFFICE OF GOV’T ACCOUNTABILITY (Mar. 21, 2019), <https://www.gao.gov/products/GAO-19-254>; see also *Lead Paint in Housing: HUD Should Strengthen Grant Processes, Compliance Monitoring, and Performance Assessment*, U.S. OFFICE OF GOV’T ACCOUNTABILITY (Jun. 19, 2018), <https://www.gao.gov/products/GAO-18-394>.

³⁵ See *Rental Housing Assistance: HUD Should Strengthen Physical Inspection of Properties and Oversight of Lead Paint Hazards*, U.S. OFFICE OF GOV’T ACCOUNTABILITY (Nov. 20, 2019), https://www.gao.gov/products/GAO-20-277T?utm_campaign=usgao_email&utm_content=daybook&utm_medium=email&utm_source=govdelivery.

³⁶ *Lead Poisoning Prevention*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/nceh/lead/prevention/default.htm>.

³⁷ *Protect Yourself and Your Family from Radon*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/radon>.

³⁸ *Ionizing Radon*, WORLD HEALTH ORGANIZATION, https://www.who.int/ionizing_radiation/env/radon/en/.

³⁹ *Protect Yourself and Your Family from Radon*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/radon>; *About Radon*, U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT, https://www.hud.gov/program_offices/healthy_homes/healthyhomes/radon.

⁴⁰ *Protect Yourself and Your Family from Radon*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/radon>.

⁴¹ *Exposure to Radon Causes Lung Cancer In Non-smokers and Smokers Alike*, U.S. ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/radon/health-risk-radon#head>.

⁴² *Id.*

⁴³ Brad Schmidt, *Cancer Cloud*, OREGONLIVE/THE OREGONIAN (Nov. 22, 2019), <https://projects.oregonlive.com/radon>.

⁴⁴ U.S. Government Accountability Office, *Indoor Radon: Limited Federal Response to Reduce Contamination in Housing* (1988) <https://www.gao.gov/assets/150/146235.pdf>

⁴⁵ *HUD Office of Multifamily Development Radon Policy*, U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT (Jan. 31, 2013), <https://www.hud.gov/sites/documents/13-03HSGN.PDF>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Radon Information for PIH Programs*, U.S. DEP’T OF HOUSING AND URBAN DEVELOPMENT (Feb. 4, 2013), <https://www.hud.gov/sites/documents/PIH2013-06.PDF>.

⁵⁰ *Id.* at 2.

⁵¹ *Protecting People and Families from Radon: A Federal Action Plan for Saving Lives* (Jun. 20, 2011), https://www.epa.gov/sites/production/files/2014-08/documents/Federal_Radon_Action_Plan.pdf.

⁵² *Id.* at 1.

⁵³ *The National Radon Action Plan: A Strategy for Saving Lives* (Nov. 10, 2015), https://www.epa.gov/sites/production/files/2019-05/documents/nrap-a_strategy_for_saving_lives_-_final.pdf, at 2.

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 2.

⁵⁶ Emily A. Benfer, *Health Justice: A Framework (and Call to Action) for the Elimination of Health Inequity and Social Injustice*, 5 AM. U. L. REV. 2 (2015) (lead article; reprinted in *PUBLIC HEALTH & ETHICS*, reader, Larry Gostin, ed. 2017).

⁵⁷ *Most Recent Asthma Data*, CTRS. FOR DISEASE CONTROL & PREVENTION, http://www.cdc.gov/asthma/most_recent_data.htm (last visited July 10, 2015).

⁵⁸ Murphy & Sandel, at S57 (“Children living in poverty experience higher rates of asthma across all ethnic groups . . .”). In a 2012 summary of data collected from the National Health Interview Survey, the Centers for Disease Control and Prevention (CDC) reported that children in poor families were more likely to have been diagnosed with asthma (nineteen percent) or to have chronic asthma (thirteen percent) than children in families that were not poor (twelve percent and eight percent, respectively). *Id.*

⁵⁹ 8 Johnna S. Murphy & Megan T. Sandel, *Asthma and Social Justice: How to Get Remediation Done*, 41 AM. J. PREVENTATIVE MED. S57, S57 (2011); see Caroline Dekker et al., *Childhood Asthma and the Indoor Environment*, 100 CHEST 922, 922, 925 (1991) (examining the influence of the indoor environment on asthma in a 19 population of Canadian schoolchildren, indicating that gas cooking, exposure to environmental tobacco smoke, home dampness, and humidifier use are associated with the prevalence of asthma). Data show that the age of housing, housing type (apartments versus single family homes), floor level, and location affect respiratory and mental health outcomes. Megan Sandel & R.J. Wright, *When Home Is Where the Stress Is: Expanding the Dimensions of Housing that Influence Asthma Morbidity*, 91 ARCHIVES DISEASE IN CHILDHOOD 942, 943 (2006).

⁶⁰ Mold, mice and zip codes: inside the childhood asthma epidemic Jan 3, 2014 In plain sight, NBC News

⁶¹ Victoria Persky et al., *Inner-City Asthma: The Role of the Community*, 132 CHEST 831S, 832S (2007).

⁶² See Appendix, Select Examples of Mold and Lead Hazards in Federally Assisted Housing

⁶³ CTR. FOR DISEASE CONTROL & PREVENTION, *ASTHMA FACTS: CDC'S NATIONAL ASTHMA CONTROL PROGRAM GRANTEES* 8 (July 2013),

http://www.cdc.gov/asthma/pdfs/asthma_facts_program_grantees.pdf; Asthma Facts and Figures, ASTHMA AND ALLERGY FOUND. OF AM., http://www.aafa.org/display.cfm?id=8&sub=42#_ftnref12.

⁶⁴ CTRS. FOR DISEASE CONTROL & PREVENTION, *ASTHMA'S IMPACT ON THE NATION: DATA FROM THE CDC NATIONAL ASTHMA CONTROL PROGRAM* 1, 3 (2015),

http://www.cdc.gov/asthma/impacts_nation/asthmafactsheet.pdf; see Research Findings, AGENCY FOR HEALTHCARE RES. & QUALITY, <http://www.ahrq.gov/research/findings/index.html> (compiling a list of various reports providing comprehensive, science-based information on common, costly medical conditions and new health care technologies and strategies).

⁶⁵ See, e.g., MIAMI-DADE COUNTY, *PUBLIC HOUSING AND COMMUNITY DEVELOPMENT ADMISSIONS AND CONTINUING OCCUPANCY POLICY*, VIII.A.13 (2014), <http://www.miamidade.gov/housing/library/reports/2014-plans/acop.pdf>

⁶⁶ *ASTHMA'S IMPACT ON THE NATION*, *supra* note 32, at 3. Medical costs are related to 479,300 hospitalizations, 1.9 million emergency department visits, and 8.9 million doctor visits for asthma treatment. *Id.* at 2–3; see Brigid Schulte, *Children's Hospital Aims to Cut Asthma-Related ER Visits*, WASH. POST (Oct. 12, 2013), http://www.washingtonpost.com/local/childrens-hospital-aims-to-cut-asthma-related-er-visits/2013/10/12/65a540fc2c79-11e3-8ade-a1f23cda135e_story.html (proffering that asthma costs the U.S. economy as much as \$56 billion a year in medical expenses, lost work and school days, and premature deaths).

⁶⁷ McDaniel et al., *supra* note 26 at 1.

⁶⁸ 24 CFR 982.405(a)

⁶⁹ IICRC S520, *Standard and Reference Guide for Professional Mold Remediation*; AIHA, *Recognition, Evaluation, and Control of Indoor Mold*, Institute of Medicine, *Damp Indoor Spaces* (2004)



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April 19, 2019

Ms. Sholanda Rivers
 13875 NW 22nd Avenue, Unit 116
 Opa Locka, FL 33054

Dear Ms. Rivers:

Thank you for your correspondence dated February 28, 2019, concerning Cordoba Court Apartments in Opa Locka, Florida. In your correspondence, you expressed concerns about the lack of security of tenant files and information, and the breach of HUD's privacy rules by property management at Cordoba Courts Apartments.

The Jacksonville Satellite Office contacted Millennia Housing Management, who is the managing agent of Cordoba Courts Apartments, regarding your concerns. HUD was notified that Attorney Barron's office was contacted to ensure he received the generated complaint from Miami Legal Aid and to request a response and appropriate action. Millennia Housing Management advised that the security officers have keys to the building to use the restroom during their work shift. Each office remains individually locked and no one other than the on-site manager has keys and access to all respective offices. All active files are secured in file cabinets and the door to the office remains locked when not in use. All past files remain behind a locked door in the Community Room. Also, the property plans to install a new fax line and relocate the fax machine to the property manager's office. The security officers have access only to the restroom during their respective shift.

Millennia Housing Management assured HUD that security and privacy matters are a top priority. And, to their knowledge, there has not been any breach of information. Information is kept securely, and property staff members are mindful of protecting tenant files and all associated data.

We greatly appreciate you bringing your concerns to our attention. Thank you for your interest in HUD's programs. I hope the information provided is helpful. Should you have additional questions regarding this matter, please contact Ms. Yvonne Coffman, Asset Resolution Specialist at Yvonne.C.Coffman@hud.gov or (904) 208-6073.

Sincerely,

Laurelei McKnight
 Director of Asset Management
 Jacksonville Satellite Office

HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.

www.hud.gov

espanol.hud.gov



SHALONDA RIVERS <mrsrivers@comcast.net>

2/28/2019 9:55 AM

Fwd: 22nd Ave. Apartments, Breach of Privacy --- URGENT,
URGENT, URGENT

To fsinito@mhmltd.com • Laura Anderson <landerson@mhmltd.com> • Maria <mhurst@mhmltd.com> •
cscott@mhmltd.com • dramos@millenniahousing.com Copy North H <pbcacontactcenter@cgifederal.com> •
Yvonne Coffman <yvonne.c.coffman@hud.gov> • saadia e figueroa-davis <saadia.e.figueroa-davis@hud.gov> •
Laurelei McKnight <laurelei.mcknight@hud.gov> • Brian A Murray <brian.a.murray@hud.gov> •
robert.g.iber@hud.gov • michaelkane@saveourhomes.org • Geraldine Collins <ms.gerri3@yahoo.com> •
hotline@hudol.gov • charles.scott@mail.house.gov • jdobson@opalockapd.com • daniellapierre@live.com •
r.roberts@rer-consulting.com • nwlcox2@aol.com • davidmaer@miamisao.com • Commissioner - City of Opa-
locka Matthew Pigatt <mpigatt@opalockafl.gov> • cdavis@opalockafl.gov • larryg@miamidade.gov •
S. Dovovan <hudexecsec@hud.gov> • governormorrison.desantis@eog.myflorida.com Blind copy
jheame@legalservicesmiami.org

February 28th, 2019

FROM:

22nd Avenue Apartments Cordoba Tenant
Association C/O Shalonda Rivers, President.
13875 NW 22ND AVE. #116
Opa Locka, FL 33054

TO:

Millennia Housing Management, Ltd
22nd Avenue Apartment Cordoba
13875 NW 22nd Ave
Opa Locka, FL 33054

U.S. Department of Housing and Urban Development
and HUD Inspector General Hotline (GFI)
451 7th Street S.W.
Washington, DC 20410

U.S. Department of Housing and Urban Development
Charles East Bennett Federal Building
400 West Bay Street
Suite 1015
Jacksonville, FL 32202

RE: Breach of Privacy

Good Day All,

Please first see below email. I have reached out to HUD, North Tampa Housing and Current Management / Previous Management with serious legitimate "Privacy Concerns" verbally, in person, by phone and/or in writing on several different occasions.

One Correction To Resident Name: Shawanna Baldwin NOT Shawanna Davis

My last conversation surrounding "Privacy Concerns" was with Susan Pressley (Ex-Regional Director) inside the rental office; face to face, a verbal conversation with concerns about security guards having keys to rental office and any faxes that comes in after office hours, that might have residents "personal sensitive private information" on it.

In addition, shortly after conversation with Susan Pressley. I spoke to the previous manager, Raphael Scott to inquire why the Compliance Specialist name Nitza Lopez was allowed to have her sister in her office with residents files opened and unlocked files, but however "WE THE RESIDENTS WAS TOLD, WE WAS NOT ALLOWED INSIDE HER OFFICE DUE TO SENSITIVE INFORMATION. (Judge This Scenario For Your One Self).

Management has proven and shown themselves time after time to be irresponsible and not capable of protecting residents personal information, as well as not capable of following HUD Privacy Rules. At one point in time, I ask management to secure my file in a secure lock file in the manager office.

In addition to these residents personal, sensitive information being displayed openly via Miami Dade County Clerk of Courts Portal; it was served and place on residents doors openly (without redaction).

Who's Truly Overseeing AND/OR Watching?!!

Best Regards,
Shalonda Rivers, President

----- Original Message -----
 From: Jeffrey Hearne <jhearne@legalservicesmiami.org>
 To: jbarronatty@aol.com
 Date: February 28, 2019 at 6:46 AM
 Subject: 22nd Ave. Apartments

James,

I represent the Cordoba Courts Tenant Association (formerly known as 22nd Avenue Apartments). The president of the association contacted me concerned that your eviction filings contain the sensitive information of residents. Specifically, the filings contain the full social security numbers of all household members, their full dates of births, and the full names of minors. You did this by filing (without redaction) the second page of the Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures in the following cases:

- Perry Tamara - Case No. 19-776-CC-23
- Kawanna Redding - Case No. 19-2389-CC-23
- Kahlana Davis - Case No. 19-2387-CC-23
- Shawanna Davis - Case No. 19-2386-CC-23

These filings violate Rule of Judicial Administration 2.425, as well as HUD's privacy policies. This breach exposes these families to identify theft with their personal information available online for the world to view. Each day this information remains online increases the possibility of identity theft and harm to these residents.

The tenant association is asking that you take immediate steps to resolve this matter, including filing a "notice of confidential information in court filing" in each of these cases and confirm that the clerk redacts the sensitive information. The landlord must also notify HUD and the effected residents of this breach, and follow all required procedures designed to remedy this problem.

Please note, at this time, Legal Services does not represent any of these tenants individually and we are making this request on behalf of the tenant association. Once your client has taken steps to remove this information from the court file and notified HUD, please let me know. Thank you for your attention to this pressing matter.

Jeffrey M. Hearne, Esq.
 Director of Litigation
 Legal Services of Greater Miami, Inc.
 4343 W. Flagler St., Ste. 100
 Miami, FL 33134
 Phone & Fax: (305) 438-2403
 Email: jhearne@legalservicesmiami.org
www.legalservicesmiami.org

LEGAL SERVICES
OF GREATER MIAMI, INC.

SHALONDA RIVERS <mrsrivers@comcast.net>

3/22/2019 7:42 AM

Shalonda Rivers - Breach of HUD Privacy Guidelines by Management

To Laurelei McKnight <laurelei.mcknight@hud.gov> • saadia e figueroa-davis <saadia.e.figueroa-davis@hud.gov> • Yvonne Coffman <yvonne.c.coffman@hud.gov> • North H <pbcacontactcenter@cgifederal.com> • charles.scott@mail.house.gov • hotline@hudoig.gov Copy Jokeira Hall <jokeira.hall@floridahousing.org> • michaelkane@saveourhomes.org • Geraldine Collins <ms.geri3@yahoo.com> • governornon.desantis@eog.myflorida.com • jdobson@opalockapd.com • Commissioner - City of Opa-locka Matthew Pigatt <mpigatt@opalockafl.gov> • cdavis@opalockafl.gov Blind copy jheame@legalservicesmiami.org

March 21st, 2019

From:

22nd Ave Apts Cordoba Tenant
Association C/O Shalonda Rivers, President.
13875 NW 22nd Ave. #116
Opa Locka, FL 33054

Good Day All,

Please see below photo.

On Thursday, March 21st, 2019 there was a tenant association meeting in the community room and we discovered several things. Please see photo with door left opened and unlock with residents files. As, I continue to say time after time, over and over that management has broken and continue to not follow HUD Privacy Guidelines.

I totally disagree with security guides having access to rental office. It's unacceptable, for such reasons like this as well as there's a fax machine with faxes possible coming in after office hours with personal information that security guards has access to.

Management continuous to be extremely very careless with residents files. The security officers has full access to the entire rental office. This will be the second to third compliant along with extreme, hard core proof that management is continuous is failing.

I'm requesting that a full, strict investigation be completed and any / all corrective measures be taken along with any penalties in this matter by HUD surrounding this matter.

Thanks,

Shalonda Rivers, President

T-Mobile----- Original Message -----
To: mrsrivers@comcast.net
Date: March 22, 2019 at 7:11 AM
Subject:

To: The 22 Ave Apts management and staff.

From: Shalonda Rivers

13875 NW 22nd Ave. #1116
Opa Locka, FL 33054

- My full bathroom roof have been constantly leaking/dripping water from Apt 2116 full bathroom shower. This have been an ongoing problem for many years now. Can some please one please properly fix/repair/resolve this problem as soon as possible.
- The base board in my kitchen behind my sink is dry rotted.
- My front door frame is broken up. The front door isn't properly on the hengers.

RSVP:

Twenty Second Avenue Apts
13875 NW 22nd Ave
Opa Locka, FL 33054

Sincerely,
Shalonda Rivers
1/28/10

9/23/14

To: Charter Realty Group
 The 82 AVE Apts
 13875 N.W. 82 AVE
 Opa Locka, FL 33054

Dear Management,

I'm hereby giving you seven (7) days from the date you receive this letter to fix the following problems with my unit located at 13875 NW 82 AVE Apt 116, Opa Locka, FL 33054:

- Water leaking in hallway, directly in front of half bathroom; Ceiling and side wall.
- MOLD, black mold, due to the water leaks consistently in the above mention area and other areas with my unit.

If these problems aren't fixed within seven days of your receipt of this letter, I will:

☒ With Hold \$_____ in rent starting the month of October 2014.

Note that your failure to maintain
the rental property as required by
law and/or our rental agreement
may make you liable for damages
I've suffered as a result of these
conditions

Sincerely,
Shalonda Rivers
Shalonda Rivers
13875 NW 22nd AVE. APT 1116
Opa Locka, FL 33054
786-267-0983

CC: File, APT 1116

Twenty Second Avenue Apts
13875 NW 22nd Ave
Opa Locka, FL 33054

RECEIVED
SEP 24 2014

PT:



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 500
Miami, FL 33131-3042

October 12, 2016

Ms. Shalonda Rivers
13875 NW 22nd Avenue, #116
Opa Locka, FL 33054

Dear Ms. Rivers:

Thank you for your correspondence dated September 13, 2016, regarding concerns at 22nd Avenue Apartments. In your correspondence, you expressed concerns regarding an unpaid trash bill, the office telephone disconnected and possible mold/sick building issues at the property.

In order to properly address your concerns, the Department contacted Millennia Housing Management, Inc., who is the management agent for the property, for information related your issues. The management agent provided HUD with the following responses:

- The property trash bills were sent to the previous owner which caused a delay in paying the bills on time. This error was corrected and the lapse of service(s) was resolved within 24 hours.
- The telephone bills were also sent to the previous owner which caused a delay in paying the bill on time. The telephone service interruption was resolved within 24 hours. This should not have caused issues for the residents as the office was open and residents could report any maintenance issues in person.
- Management stated they are unaware of any on-going mold/sick building issues. When residents submit work orders, or express concerns regarding mold, the maintenance team immediately addresses them and will continue to address the individual issues in accordance with mold remediation procedures. It is each tenant's responsibility to notify management immediately if they have mold issues that require attention.

Should residents have any questions or need to report maintenance issues on their units, they should contact management directly. Should you have any questions or concerns regarding this letter, please contact Sara Warren, Senior Account Executive, at (305) 520-5052.

HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.

www.hud.gov

espanol.hud.gov



GEICO Insurance Agency, Inc.

One GEICO Boulevard
Fredericksburg, VA 22412
1-800-841-3005

7/6/2017

Shalonda Rivers
13875 NW 22ND AVE #Apt 116
OPA LOCKA FL - 33054

Dear

Shalonda:

We are writing concerning your inquiry regarding homeowner's coverage. In determining whether a client is eligible for this coverage, we use guidelines based on our company's experience. Unfortunately, we sometimes find that customers with whom we would like to do business are not eligible for coverage.

At this time, we are unable to provide coverage through our carriers due to:

- **Mold Damage**

We apologize for any inconvenience that this may cause you. To seek insurance you should check with local agents or contact the Fair Plan.

Sincerely,

Property Department
GEICO Insurance Agency, Inc.



City of
OPA-LOCKA
Florida

12
14

CITY OF OPA-LOCKA
Petitioner,
Vs.
22ND AVENUE APARTMENTS LLC
Respondent,

Citation Number: 21453-16
CE Number: 16120090
Folio Number: 08-2122-000-0170
Officer Name: John Cook

**SPECIAL MASTER - FINDING OF FACT AND CONCLUSIONS OF LAW
FINAL RULING**

I FIND THAT

1. The respondent, 22ND AVENUE APARTMENTS LLC on 12/14/2016, at the property Located at 13875 NW 22 AVE is / was in violation of The City of Opa-Locka Code, Section 14-1a as described in the written report of the code Enforcement Officer and in oral testimony before the Special Master.
Description of violation: mold creating hazardous condition in apts. cv#14.1(a) c#21453
2. On behalf of the City of Opa-Locka, the respondent 22ND AVENUE APARTMENTS LLC
3. must pay:
 - (☒) Citation Amount: \$250.00
 - () Increase Citation Fee: \$ _____ () Reduced Citation Fee: \$ _____
 - (☒) Fine Fee per day: \$ 300.00 starting 5/18/17 (IF NOT COMPLIED WITHIN 30 DAYS)

Additional Cost

- (☒) Other Cost: \$238.44
- () Citation Dismissed
- () Agency Assessment \$ _____

TOTAL AMOUNT TO BE PAID: \$ 488.44 (If COMPLIED WITHIN 30 DAYS)

Comments:

() No show (☒) Present

Tenant Present - Prop owner NO SHOW

A Certified copy of this order may be recorded in the public records of Dade County and thereafter shall constitute a lien against the above referenced property, or if you do not own said property, against any real or personal property that you own. **LIEN THAT REMAINS UNPAID FOR THREE (3) MONTHS MAY BE FORECLOSED IN COURT.** In addition, the certificate of use and Occupational License of any business occupying the property may be suspended or withheld. Operating a business without all required licenses is illegal under State and City Ordinance, and is punishable by criminal arrest and/or closing the business.

CERTIFICATE

I hereby certify that the foregoing is a true and correct order entered into by the Special Master.

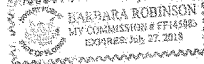
DONE AND ORDERED THIS 18th DAY OF April, 2017.

ATTEST:

SPECIAL MAGISTRATE

Barbara Robinson
NOTARY PUBLIC

780 FISHERMAN STREET OPA-LOCKA, FLORIDA 33054 (305) 953-2868 EXT#1510



Revised: January 2017

12. Case no:21453-16 CE No:16120090

Respondent:22ND AVENUE APARTMENTS LLC

Violation address:13875 NW 22 AVE

Amount:250

Inspector:John Cook

Description:mold creating hazardous condition in apts. cv#14.1(a) c#21453

13. Case no:21492-17 CE No:17010025

Respondent:BEST HOME DEVELOPMENT LLC

Violation address:13184 NW 31 AVE

Amount:500

Inspector:John Cook

Description:Working without permit. Defied stop work order -continued to work without permit

14. Case no:21442-16 CE No:16120134

Respondent:SYBLEAN MCPHEE

Violation address:13349 NW 47 AVE UNIT: 9

Amount:300

Inspector:John Cook

Description:Working outside of the building, block right of way with pallets & debris - repeat violation

15. Case no:21507-16 CE No:17010001



CITY OF OPA-LOCKA
Petitioner,
Vs.
22ND AVENUE APARTMENTS LLC
Respondent,

Citation Number: 21453-16
CE Number: 16120090
Folio Number: 08-2122-000-0170
Officer Name: COOK JOHN

**SPECIAL MASTER – FINDING OF FACT AND CONCLUSIONS OF LAW
FINAL RULING**

I FIND THAT

1. The respondent, 22ND AVENUE APARTMENTS LLC on 12/28/2016, at the property Located at 13875 NW 22ND AVENUE is / was in violation of The City of Opa-Locka Code, Section 14-1A as described in the written report of the code Enforcement Officer and in oral testimony before the Special Master.
Description of violation: reinstatement of previous ruling per assistant city manager/Mold creating unsightly conditions
2. On behalf of the City of Opa-Locka, the respondent 22ND AVENUE APARTMENTS LLC must pay:
(☒) Citation Amount: \$250.00
() Increase Citation Fee: \$ _____ () Reduced Citation Fee: \$ _____
(☒) Fine Fee per day: \$ 300.00 starting 2/16/18 IF NOT COMPLIED WITHIN 30 DAYS)

Additional Cost

- (☒) Other Cost: \$238.44
() Citation Dismissed
() Agency Assessment \$ _____

TOTAL AMOUNT TO BE PAID: \$ 488.44 (If COMPLIED WITHIN 30 DAYS) - running fine starting 2/16/18

Comments:

- () No show (☒) Present
() fully compliance () partial compliance

Previous ruling clarified, Reinforced Daily Fine tolled from previous order.

A Certified copy of this order may be recorded in the public records of Dade County and thereafter shall constitute a lien against the above referenced property, or if you do not own said property, against any real or personal property that you own. **LIEN THAT REMAINS UNPAID FOR THREE (3) MONTHS MAY BE FORECLOSED IN COURT.** In addition, the certificate of use and Occupational License of any business occupying the property may be suspended or withheld. Operating a business without all required licenses is illegal under State and City Ordinance, and is punishable by criminal arrest and/or closing the business.

CERTIFICATE

I hereby certify that the foregoing is a true and correct order entered into by the Special Master.

DONE AND ORDERED THIS 10th DAY OF January, 2017:

ATTEST:
SPECIAL MAGISTRATE

Barbara Robinson
NOTARY PUBLIC



City of Opa-locka – Code Enforcement
 Special Magistrate's Hearing
Tuesday, January 16, 2018 at 10:00 am
 City Commission Chambers
 215 PERVIZ AVENUE
 OPA-LOCKA, FL 33054

Agenda

Call to Order – Special Magistrate
 Christopher Benjamin

Officer : COOK JOHN

 45. Respondent: LOURDES DEL PINO Case Number: 22436-17
 Violation address: 1146 ORIENTAL BLVD
 CE Number: 17110345
 Code violation : 7-3
 Description: FAILURE TO OBTAIN ROOFING PERMIT WORKING WITHOUT A PERMIT.
 Amount: \$500.00
 Officer : COOK JOHN

46. Respondent: 22ND AVENUE APARTMENTS LLC Case Number: 21453-16
 Violation address: 13875 NW 22ND AVENUE
 CE Number: 16120090
 Code violation : 14-1A
 Description: reinstatement of previous ruling per assistant city manager/Mold creating unsightly conditions
 Amount: \$250.00
 Officer : COOK JOHN

*Tina, Chris, and
 Kiera Tanis*

*21453-16
 21453-17*

47. Respondent: PEDRO CRUZATA Case Number: 22596-17
 Violation address: 530 HAREM AVENUE



BUILDING AND LICENSING DEPARTMENT
780 FISHERMAN STREET 4TH FLOOR
OPA-LOCKA, FL 33054
TEL: 305-953-2868, Option 6
FAX: 305-953-2897

MYRA L. TAYLOR, MAYOR
JOSEPH KELLEY, VICE MAYOR
TIMOTHY HOLMES, COMMR.
MATTHEW PIGATT, COMMR.
JOHN RILEY, COMMISSIONER
JOANNA FLORES, CITY CLERK
NEWALL J. DAUGHTREY, CITY MANAGER

July 25, 2018

Mr. Raphael Scott, Community Manager
Cordoba Courts
13875 NW 22 Avenue
Opa-locka, Florida 33054

Subject: Cordoba Courts 13875 NW 22 Ave Opa-locka Fl. 33054

Dear Mrs. Lopez,

On July 17, 2018, the Building & Licensing Department conducted a follow up inspection of the units listed below for minimum housing compliance.

Our observations are described below:

Apt# 116 – Box below AC has been changed. Sealed holes to stop rats coming in. Kitchen Cabinets – tenant complain that drawer is not functioning properly. Some cabinet drawers are loose. Hallway – Ceiling drywall repair is incomplete with visible mold. Front door swollen and or damaged.. Tenant says bathroom has mold. The bathroom tub faucet is leaking. Front door weather strip is loose.

Apt#117 – Drywall repair required at kitchen entrance: Kitchen sink has water leak through the drain pipe. Rats come in through AC closet. Drywall and baseboard has damaged. Living room – Electric outlet cover plate is missing. Drywall repair near bathroom entrance is incomplete. Bedroom tenant – made hole in door. Drywall is damaged in bathroom.

Walkway near apartment 114: Observed soil erosion underneath the concrete walkway.

Apt#104 – front door base has damage, closet door need replacement or repair, ceiling has water leak stains, AC water pipe drain is in need of repair, water collecting in the bucket. Kitchen cabinet doors are missing. Tenant is using plastic sheet to cover the cabinets opening. Elderly handicap person has no handicap bathroom. Provide the accessibility according to ADA American with Disability Act. Living room drywall is damaged with big hole. Need to be properly repaired. Tenant did temporary repair.

Apt#206 Installed new lock at front entrance door, bathroom ceiling paint is peeling. AC closet – metal bifold door is out of track, not operational. Bedroom – tenant complain about termites dropping from the ceiling. Kitchen – door tenant put metal to prevent rats from coming in. Kitchen door gets jammed and need to be replaced.

Apt#214 – Closet door replaced. Closet door in bedroom has been replaced; however, need one door to complete the closet. Bedroom door has a hole. Tenant repaired with tape. Need repair with proper material. Also need roach treatment.

Apt#215-Dead rats found on glue traps behind stove, drywall has damaged because of hit by some object or furniture. Observed dirty AC filter. Filter need to be replaced.

Apt#217 No one in apartment

Apt#220 – Replaced old refrigerator, new refrigerator installed. closet door in bedroom need to be replaced or repaired. Bedroom door frame damaged. Bathroom termite under the sink, closet metal bifold to be replaced or repaired, Bathroom tub to be refurbished. Some rust in bath tub. Rat issue in kitchen, Kitchen ceiling observed poor ceiling repair, need to repair ceiling properly.

Apt#239 – Kitchen cabinet doors are damaged. Need to be repaired. Bedroom – bifold metal doors are damaged. Need repair to be replaced, ceiling in hallway is cracking, bathroom window screen is damaged, AC closet metal bifold door need replacement or repair. AC closet has water leak through AC drain pipe. Water flows on to the floor.

Apt#250 – Living room ceiling has paint peeling, has moisture stains, kitchen cabinets need to be replaced, cabinets are damaged. Living room ceiling light has fallen down need to be replaced. Maintenance used spray paint in bathroom.

Apt#251 – paint peeling and damaged ceiling drywall. Bathroom, unfinished work in bathroom sink. Electric cord to ceiling fan need to be properly attached to ceiling, kitchen cabinets are damaged and need to be replaced, closet metal door need to be replaced or repaired, drywall bedroom is damaged, closet bedroom metal bifold in bedroom need to be replaced.

Apt#254 – Resident complained about living room ceiling poor work. There are two holes behind toilet, rat comes through these holes. Heat light does not work. Resident complaint about mold smell from heat light. Refrigerator is making a knocking noise.

Apt#125 – Living room need window blind, need new refrigerator, Old refrigerator is not working.

Apt#110 – Nickia Johnson – Kitchen cabinet door need repair or replacement, roaches coming through walls in kitchen, refrigerator need to be replaced, it is not cooling. Bathroom towel handle to be installed, toilet seat is damaged, water through AC pipe flows on to floor, water from unit above left the water faucet open and Apt#110 was flooded from the 2nd floor water coming down on to first floor Apt#110. metal pad to be placed in hole, need refurbishing of the bath tub, bedroom observed discoloration on ceiling from AC pipe in children's bedroom. Door in children's bathroom is damaged and need to be replaced. Water drains from AC unit in the closet on to the floor.

Apt. 275- According to Ms. Shelonda Rivers tenant of unit 116, the tenant of apt 275 has advised her of no electric in apt.. Tenant is using flash light and running cords threw out apt unit. complaint about rat infestation.

The management is responsible for the maintenance of this property. The building must meet the minimum housing standards. The electrical system must remain safe at all times. There shall be no plumbing leaks.

Plumbing water leaks, missing electric outlet covers shall be replaced or repaired. Mold treatment shall be provided as deemed necessary by a professional mold remediator. The building must have a termite and rodent control maintenance program. In accordance with provisions of the (FBC) Florida Building Code and the Miami Dade county Code Chapter 10, you must apply for an Annual Facility Permit. This permit will allow you to perform your own maintenance work with certified maintenance personnel. This permit shall be renewed annually. Please obtain this permit within 14 working days from the date of this letter, and within 30 days complete all repairs listed above.

Failure to maintain the building properly will result in non-renewal of your occupational license and Landlord tenant permits, followed by closure of the building.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Esin Daniel Abia', written in a cursive style.

Esin Daniel Abia, CBO, Director of Building & Licensing

Copy: Arshad Viqar, P.E., CFM
Nathaniel Wilcox, Senior Lobbyist
Pastor Jame L. Pacley, Pastor/Teacher
Pastor A. D. Lenoir, Sr. Lead Servant



BUILDING AND LICENSING DEPARTMENT
780 FISHERMAN STREET 4TH FLOOR
OPA-LOCKA, FL 33054
TEL: 305-953-2868, Option 6
FAX: 305-953-2897

MYRA L. TAYLOR, MAYOR
JOSEPH KELLEY, VICE MAYOR
TIMOTHY HOLMES, COMMR.
MATTHEW PIGATT, COMMR.
JOHN RILEY, COMMISSIONER
JOANNA FLORES, CITY CLERK
NEWALL J. DAUGHTREY, CITY MANAGER

August 24, 2018

Mr. Raphael Scott, Community Manager
Cordoba Courts
13875 NW 22 Avenue
Opa-locka, Florida 33054

Subject: Cordoba Courts 13875 NW 22 Ave Opa-locka Fl. 33054

Dear Mr. Raphael Scott, Community Manager

As you are aware, your building has been cited for several violations. You were advised to obtain the annual facility permit to make all the necessary corrections and as of today, you have not obtained that permit so the Building Official has cancelled your re-inspection scheduled for Friday, August 31, 2018. We have no choice but to proceed to special masters to enforce closures to the apartments that were cited in the violation notice. If we don't hear from you within seven (7) days of this notice, we will proceed with the code enforcements ruling.

Please govern yourselves accordingly.

Sincerely,

Esin Daniel Abia, CBO, Director of Building & Licensing

Cc: Newall J. Daughtrey, City Manager
Arshad Viqar, P.E., CFM
Shamecca Lawson, Executive Assistant to City Manager
James Dobson, Chief of Police
Nathaniel Wilcox, Senior Lobbyist
Pastor Jame L. Pacley, Pastor/Teacher
Pastor A. D. Lenoir, Sr. Lead Servant

WHITE HOUSE

Under Ben Carson, more families live in HUD housing that fails health and safety inspections

While HUD Secretary Ben Carson pledged to fix low-income housing, the number of properties cited for health and safety violations has been on the rise.



Ashley Matos sits with her daughter Izabella, 3, and son Jayden, 9, outside their home in Hartford, Connecticut. The apartment, subsidized by the Department of Housing and Urban Development, is infested with mold and rodents and has other serious problems, including a leak in her son's bedroom that empties onto an electrical outlet when it rains. Hannah Rappleye / NBC News

Nov. 14, 2018, 4:17 PM EST / Updated Nov. 14, 2018, 8:22 PM EST

By Suzy Khimm, Laura Strickler, Hannah Rappleye and Stephanie Gosk

HARTFORD, Conn. — The mold started in the basement. But it soon spread to every corner of Rondesha Brooks' government-subsidized apartment, covering the walls of the living room, the back of the couch and even her daughter's shoes. The stench quickly filled the house, and Brooks, 28, feared for her daughter, who is 12 and has asthma.

"It's not safe to live in," said Brooks, who works as a cashier at a fast-food restaurant.

A federal housing inspection in February confirmed living conditions were abysmal — not just in Brooks' home, but throughout the 52-unit Section 8 development known as the Infill apartments. The property scored only 27 points out of 100, far below the 60 points needed to pass the mandatory health and safety inspection.



Under Ben Carson, more families live in HUD housing that fails health and safety inspections

NOV. 14, 2018 03:51

The failing score was supposed to prompt swift action by the Department of Housing and Urban Development and the building's private landlord, who has a multimillion-dollar federal contract to rent the property to low-income residents, according to records obtained by NBC News. With citations for exposed wiring, missing smoke detectors and bug infestations, the Infill units racked up 113 health and safety violations – including 24 that HUD deemed “life-threatening.”

But more than nine months after the inspection, federally mandated deadlines for action have come and gone, and residents say little has changed. The black mold keeps spreading beyond the thin coat of paint that the landlord recently put on Brooks' walls and is now creeping up her couch, no matter how much she cleans. Next door, roaches crawl all over her neighbor's kitchen, where the ceiling collapsed this summer; the neighbor struggles to keep bedbugs from biting her 1-year-old granddaughter.

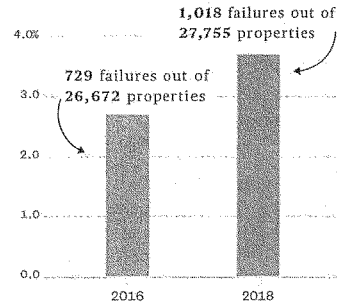
“How could they let someone get away with doing something like this?” asked Brooks.

From his earliest days in office, HUD Secretary Ben Carson has repeatedly said he joined the Trump administration to fix the “rats, roaches, bed bugs, mold, lead and violence” that he witnessed as a surgeon in low-income communities. Under the Trump administration, the number of HUD apartments cited for unsafe, unhealthy and physically deteriorating living conditions has been on the rise.

An NBC News investigation has found that more than 1,000 out of HUD's nearly 28,000 federally subsidized multifamily properties failed their most recent inspection – a failure rate that is more than 30 percent higher than in 2016, according to an analysis of HUD records.

More HUD housing is failing inspection

The failure rate for multifamily properties has increased since 2016



Source: HUD

Graphic: Jiachuan Wu / NBC News

HUD notes that the vast majority of federally subsidized apartments – more than 96 percent – passed inspection. The department says the recent increase in failing properties is due to changes previously made to strengthen the inspection system. After lawmakers led by Sen. Marco Rubio, R-Fla., [drew attention](#) to poor conditions in other privately owned Section 8 properties, including some with passing scores, HUD tightened its standards for repairs and for certifying inspectors in 2016. The department is continuing to overhaul the process, according to HUD spokesman Brian Sullivan.

“The secretary believes very deeply that families should not be forced to live in housing that’s unsafe or unhealthy and taxpayers shouldn’t be subsidizing it,” Sullivan said. (Through a spokesperson, Carson declined to be interviewed.)

Rondesha Brooks stands in the doorway of her Infill apartment. Hannah Rappleye / NBC News

But more failing properties also mean that HUD has a bigger caseload of troubled homes to oversee. And rather than beefing up the department's staff to oversee them, HUD has lost hundreds of staff members in the wake of a hiring freeze mandated by President Donald Trump. HUD's enforcement office, tasked with going after the worst landlords, now has the lowest staff levels since 1999, according to a [federal watchdog](#). At the same time, Carson has [proposed](#) raising rents on poor families, requiring them to pay a higher percentage of their income for housing, and the Trump administration has [pushed](#) – so far unsuccessfully – for steep budget cuts.

The staff cutbacks have made it more difficult for the department to identify and fix problems quickly, current and former HUD employees say. While tenant advocates have long criticized HUD's oversight as being too lax, a dozen current and former HUD officials – both political appointees and career staff – also describe a climate of inertia under Carson that they say is undermining the department's work.

"There's no urgency on anything," said a current HUD official who asked not to be identified for fear of retribution.

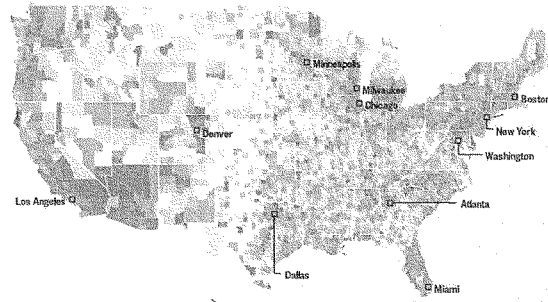
Health and safety violations in HUD multifamily housing

These government-funded affordable housing properties failed their most recent inspection

Each dot represents a property with a score of 59 or below.

Total population:

← Lower Higher →



Detail area



Note: HUD inspection data as of March 2018

Sources: HUD, Census Bureau

Graphic: Jiachuan Wu / NBC News

A slow response by HUD, while not uncommon in government agencies, can have serious repercussions for the children, elderly and disabled who make up the majority of those living in taxpayer-subsidized housing. In one of Hartford's poorest neighborhoods, a three-month investigation by NBC News found that HUD failed to comply with federal laws requiring prompt action against the owner of a property that authorities knew was unsafe, unhealthy and in disrepair, according to documents released through the Freedom of Information Act.

"We can't say that it's acceptable, just because somebody's poor, that their kid lays in bed at night with mice," said Cori Mackey, executive director of the Christian Activities Council, a social justice group in Hartford that has helped the Infill tenants organize. "Everything that's being done is a Band-Aid."

HUD says that it is making an aggressive effort to go after delinquent landlords. "The department is under new marching orders from Secretary Carson to redouble our enforcement against those who violate our rules," said HUD spokesman Jereon Brown.

Ashley Matos doesn't allow her children to enter the basement of their apartment because of a mold infestation.
Hannah Rappleye / NBC News

But tenants here say they feel trapped in decrepit homes with nowhere else to go. Their rental assistance is tied to the property, so they can't take their subsidy elsewhere.

"I have no control over it, and talking about it to the people in charge – it's useless," said Erica Pierre, 31, a single mother whose Infill apartment is infested with mold and rodents. "If I could leave, I would."

'We need these landlords'

The Infill buildings are scattered across Hartford's North End, a predominantly black neighborhood where nearly half of the residents live below the poverty line.

Under the Obama administration, HUD singled out the neighborhood for federal help, citing the North End's "alarmingly high rates of unemployment, violent crime and food insecurity" in 2015. Low-slung houses, corner stores and abandoned lots still surround the Infill apartments, where residents live in two-story units covered in brick and white siding.

On paper, they are the kind of privately owned, publicly subsidized properties that Carson has championed as the solution to the country's affordable housing crisis. Under the Section 8 affordable housing program, tenants typically pay 30 percent of their income toward rent, and taxpayers make up the rest. Infill's landlord is guaranteed over \$700,000 in rent for the entire property each year, according to documents released through the Freedom of Information Act and obtained by NBC News.

"It's the private-public partnerships that work because there's almost unlimited money in the private sector," Carson said in April 2017, shortly after becoming HUD secretary. "There's very limited money in the government."

But relying on private landlords still requires HUD resources and staff to ensure owners are delivering what they promised to taxpayers. And HUD officials have acknowledged that even when these buildings fail physical inspections, HUD is slow to cancel contracts or impose fines on delinquent landlords — reluctant to force tenants out of their homes and fearing that landlords will pull out of the Section 8 program altogether. Instead, HUD generally tries to accommodate landlords who promise to make fixes, even if they are slow in coming.

“You don’t pull levers to send shockwaves into the landlord communities. We need housing — we need the units out there,” said a HUD official, who asked not to be identified to speak frankly about the department. “We need these landlords.”

In the case of Infill, though, HUD acknowledged that the landlord failed to deliver. “The owner provided certain assurances to our field folks that, in the end, did *not* happen,” Sullivan said in an email. That hasn’t stopped the federal subsidies. “It’s a flow of money that continues to come,” said AJ Johnson, a local pastor who has helped the tenants organize.

Long delays, little action

Living conditions at the Infill apartments deteriorated after new owner Blima Isaacson and manager Eli Fish took over the HUD-subsidized buildings in the summer of 2016, more than a dozen tenants told NBC News.



Erica Pierre's 9-year-old daughter has asthma that is triggered by mold and mice. Hannah Rappleya / NBC News

Pierre, who works full-time for Hartford’s education department, said she tries hard to make a home for herself and her 9-year-old daughter, filling the space with family photographs and houseplants. Upstairs, her daughter’s room is decorated in pink and purple, matching her favorite toy — a Barbie dream house. But, Pierre said, she feels powerless against the mold that grows in the basement and across the ceiling of her bathroom.

The previous landlord had kept the mold at bay by spraying the walls with bleach, Pierre said. That's what her daughter's medical provider had recommended after determining that the girl's asthma was triggered by mold and mice, medical records show.

But Fish, the new property manager, has neglected the problem, Pierre said. "There's been times when I've done a half day at work and waited for him to come," she said. "No one showed up."

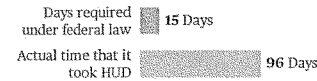
The property dropped from 91 points in a November 2014 inspection to 27 points this year, according to HUD records. This should have set off a tight timeline of responses under [legislation](#) Congress passed in 2017 and renewed in March, prompted by grim conditions in other Section 8 buildings.

Instead, HUD and the landlord missed one deadline after another. HUD began the process by issuing a failed inspection report to Infill's owner on Feb. 2, according to records released through the Freedom of Information Act and obtained by NBC News. HUD was then required to follow up [within 15 days](#) to notify Infill's landlord that he was in default of the contract and give him a deadline for correcting all problems. But HUD didn't issue that [notice](#) until early May – 96 days later.

When it finally sent the notice, which was addressed to Fish, HUD informed him that he had 60 days to "correct all physical deficiencies" at Infill, or else face further action by HUD. But Fish took more than twice as long – 131 days – to certify that he had fixed all problems, according to [HUD documents](#) obtained by NBC News.

Delays in fixing the Infill property

81-day delay in HUD taking enforcement action after a failed inspection



71-day delay in landlord certifying to HUD that he has made all repairs



Source: HUD

Graphic: Jiachuan Wu / NBC News

HUD says Infill's owner moved more quickly to fix exposed wires, missing smoke detectors and other serious violations, according to a HUD visit in mid-February. But in June, July and August, city inspectors found rampant infestations of bed bugs and mice, according to [inspection reports](#) obtained by NBC News that detailed dozens of violations. The city also cited Infill for missing smoke detectors and electrical hazards – the types of urgent safety violations that HUD claimed had been fixed months earlier.

Fish finally told HUD the buildings had been fully repaired in mid-September, which should have prompted HUD to follow up with a top-to-bottom inspection "as soon as possible," according to the department's [latest guidance](#). But HUD only came in to re-inspect the Infill apartments after weeks of questioning by NBC News. The department declined to release the new inspection score or report from its Nov. 6 visit and told NBC News to file a Freedom of Information Act request. (HUD said the score was not final and the department needed to give the owner time to appeal if he chose to do so.)

HUD characterized the delays as typical. But they fly in the face of legislation that Congress passed to speed up and toughen HUD's response to failing properties – changes that HUD has inserted in its official guidance. The worst cases are handled by HUD's Departmental Enforcement Center, which can use everything from monetary penalties to the replacement of property managers to get delinquent landlords in line.

When pressed to explain the protracted delays, HUD said that cases like Infill's can often take more time, not less. "As always, when the DEC becomes involved, more time is needed to determine an enforcement approach," said Sullivan, the HUD spokesman, referring to the Departmental Enforcement Center.

In the meantime, tenants say they've been left with damaged windows, vermin, mold and faulty heat. One tenant said she had been complaining about a leaky kitchen ceiling "for months" to Fish before it collapsed completely in July, terrifying her family. The landlord finally patched up the hole. But water continues to leak throughout the Infill properties, tenants say.

During a recent downpour, Ashley Matos rushed into her son's bedroom to mop up the water that had leaked in through his window. She called the landlord but says it took weeks to get a response. "We have to go chase him," Matos said.

At another Section 8 property in Hartford, Fish repeatedly failed to comply with HUD requests to clean up a building where a child under the age of 6 had tested positive for lead poisoning under a previous owner, according to documents obtained by NBC News.

When approached by NBC News at one of his Infill buildings, Fish waved off questions and drove away in his car. Isaacson, who shares a Brooklyn home address with Fish according to public records, did not respond to requests for comment.

'We just don't have the staff'

HUD officials have admitted that they don't have the resources to keep close tabs on the tens of thousands of subsidized properties they oversee.

In Hartford, just up the street from Infill, a Section 8 property run by another landlord passed inspection in February despite holes in the ceiling, rampant mold and other serious problems. Meeting privately with irate tenants in early October, HUD officials blamed an inspection process that can result in inflated scores from contract inspectors, despite recent reforms.

"That's how you get a passing score with mold, vermin and a falling down bathroom ceiling – the system is broken," said one HUD official in a recording of the meeting with tenants provided to NBC News on the condition that the participants not be identified. (HUD verified that the recording was authentic.)

When tenants asked at the meeting why HUD hadn't followed up sooner, the HUD official said the department didn't have the capacity. "We just don't have the staff for it," he said, according to the recording. "There are 432 properties in Connecticut alone and I have – I have five staff," his colleague added.

Sarah Wheeler cries in the living room of her home in Hartford's Infill buildings. Wheeler says both her landlord and the federal government have ignored her pleas for help in fixing the conditions in her family's apartment. "We're tired of having to make phone calls," Wheeler said. "We're tired of people coming out, like HUD and the city, and nothing is still getting done. Nothing." *Hannah Rappleye / NBC News*

Instead, HUD says that it relies on the vigilance of outside advocates like Cori Mackey and AJ Johnson of the Christian Activities Council, as well as organized tenants and media reports to prompt action on properties that have fallen through the cracks. That's what led HUD to take the rare step of canceling its contract with another Hartford landlord, Emmanuel Ku, in May, for repeatedly failing to repair his Section 8 apartments. (Ku did not respond to a request for comment.)

"When something is brought to our attention through Cori or you all, we can say, 'Wait a minute, we need to take a look,'" the first HUD official told Hartford tenants, according to the recording.

HUD's staffing shortfalls extend well beyond Connecticut. HUD has shed more than 480 staff members since the end of the Obama administration, according to government records, in part due to the hiring freeze Trump implemented when he took office.

The department's enforcement office has been losing staff for years, but it's reached a two-decade low of 90 employees under Carson, according to data provided to NBC News by the Government Accountability Office.

The watchdog also found that work completed by HUD's enforcement office dropped by 25 percent since 2016 and criticized HUD for failing to keep track of its caseload. When asked for enforcement data that HUD is required by law to provide to Congress – totaling the actions taken on failing properties – HUD said it could not provide reports before November 2017 because it had never compiled them.

"Whether it's indifference or incompetence, the Trump administration's failures in Connecticut and around the country cannot be excused. Someone must be held accountable," said Sen. Chris Murphy, D-Conn., who led previous efforts to strengthen the HUD inspection process. "Secretary Carson owes it to these families to present a concrete plan for how he will make this better, and how he'll make sure nothing like this ever happens again."

Meanwhile, in HUD's regional offices – which are on the front lines of monitoring troubled properties – current and recently departed officials say that they have struggled to fill positions and that caseloads have spiked.

"There's a huge vacancy problem," said Ellen Lurie Hoffman, federal policy director at the National Housing Trust, a nonprofit that advocates for affordable housing. "We know from hearing from them that many of the field offices are overwhelmed."

HUD admits that "we are leaner than we used to be" but Sullivan, the spokesman, said the department is in the process of bringing on 77 staff members to the Office of Multifamily Housing, which oversees the contracts for multifamily rentals, and is recruiting for 48 vacant positions. The department added that it is conducting a "wholesale re-examination" of the inspection process and recently released new guidance meant to strengthen its oversight of HUD-subsidized apartments.

But HUD issued its first news release on the inspection overhaul and its new guidance only after weeks of questions by NBC News. Carson, meanwhile, has other priorities: He recently suggested rolling back inspection requirements, rather than strengthening them, to encourage more landlords to participate in the Section 8 voucher program and has stressed the need to encourage "self-sufficiency" by raising rents on all Section 8 tenants.

That includes Pierre, who pays \$371 a month for her three-bedroom. (HUD covers the rest of the \$1,120 rent.)

Pierre is grateful for a place that she can afford while she works as a speech therapist and earns her bachelor's degree in psychology. Her plans for the future include getting a master's and, one day, owning a home. But she worries constantly about how the mice and mold will affect her daughter's health.

"I don't want her to think that this is OK," Pierre said, in tears. "I don't want her to become an adult and live her life like this."

Infill's owner, meanwhile, is set for years to come. In July 2017, just seven months before the failed inspection, HUD renewed its contract with Isaacson for 20 years – a deal worth over \$14 million.

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