

**Identifying Systemic Barriers to Housing Homeless
Individuals with Mental Health Disabilities in
Pasadena:**

A Report with Recommendations for Next Steps

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**Mental Health Advocacy Services, Inc.
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Executive Summary

Mental Health Advocacy Services, Inc. (MHAS), through funding from the State Bar of California, conducted a study in 2018 aimed at identifying barriers to housing low-income individuals with mental health disabilities in Pasadena. The goal of the study was to develop an understanding of the complex procedural, administrative, and statutory rules governing local housing programs and subsidies, specifically those for homeless individuals with serious mental health disabilities, and how that regulatory framework worked on the ground for those individuals and the workers charged with helping them become housed. In other words, what barriers were being experienced on a daily basis by unhoused individuals and the many staff members at agencies responsible for helping them find housing and achieve stability?

In conducting this study, MHAS completed a literature review and legal research needed to better understand how local practices and policies related to state and federal legislative requirements. MHAS then identified local housing advocates and staff at tenant organizations, housing advocacy organizations, homeless service providers, City of Pasadena Housing Department (CoPHD) and mental health service programs, as well as people experiencing homelessness in Pasadena (collectively, “Stakeholders”). These Stakeholders were selected because they were deemed likely to have valuable information about how the processes set up by applicable law and regulation worked in practice in the community.

Over a several month period in 2018, MHAS completed interviews of these Stakeholders. The focus of the interviews was to identify barriers as perceived and experienced by the Stakeholders in their daily lives and work, and to understand how those barriers might interfere with a homeless individual’s becoming housed before he/she becomes so critically ill as to require long-term hospitalization or nursing home care. Stakeholders interviewed included staff at CoPHD, Pasadena organizations that serve or work with homeless individuals, such as Friends In Deed, a non-profit organization that operates Pasadena’s Bad Weather Shelter program, Union Station Homeless Services, Salvation Army, and Learning Works, as well as the Pasadena Partnership, the regional planning entity that acts as Pasadena’s Continuum of Care (COC) to apply for and receive funding for local housing assistance.¹ In addition, staff at mental health clinics working in the Pasadena area, including Pacific Clinics and Hathaway-Sycamores, shared their experience specifically related to serving clients with mental health disabilities. Interviews with Stakeholders helped MHAS identify for this report next steps aimed at reducing delays in housing low-income people with mental health disabilities.

The results of this study are set forth in this report, which focuses on the legal barriers identified as well as other barriers that specifically impact clients with mental health disabilities. The

¹ The Pasadena Partnership is designated as the “recipient” of HUD funding, which it then distributes to the non-profit service providers (“sub-recipients”).

thread that was consistent through the interviews was a lack of clarity about how fair housing laws work and how and when to integrate the laws' principles into daily practice.

Reasonable accommodations provided for under fair housing laws can help people with disabilities access and maintain housing. Because incorporating fair housing concepts of reasonable accommodation into practice and policy can help maximize the number of vulnerable clients who are housed, MHAS has identified a strategy for collaboration with Pasadena advocates and leaders that it proposes as a next step in reducing the barriers to housing clients with mental health disabilities.

The goal would be to collaborate with CoPHD, Pasadena Partnership, and local service providers to develop best practices related to incorporating fair housing principles into existing processes. The work would involve both 1) review of current practice and procedures (e.g. forms used, processes followed) to identify aspects of the processes where intentional incorporation of reasonable accommodation strategies would affirmatively further the goal of housing individuals with mental health disabilities, and 2) development of a community-wide plan for training and technical support of Stakeholders around application of fair housing laws.

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1. Introduction

Homelessness in Pasadena increased in 2018 to 677 unhoused individuals, following a low point in 2016 of 530.² The 2018 Pasadena Homeless Count found a growing number of older individuals who are not sheltered.³ The count further noted that about one in five unhoused individuals live with a mental health disability.⁴ This trend is consistent with California's increasing homeless population from 2016 to 2018.⁵

Federal laws have been enacted to support the homeless population through housing subsidies. Lawmakers eventually acknowledged that establishing housing was not enough; many homeless individuals also have physical and/or mental health disabilities, requiring a holistic approach in which supportive services are integrated into the housing offered to stabilize the client and maximize the likelihood of a successful transition to staying housed over the long term.

The U.S. Department of Housing and Urban Development (HUD) has recognized the rise in homelessness, and legislation has provided for creation of regional planning entities known as Continuums of Care (COC) in order to service the needs of homeless individuals with disabilities. COCs are composed of numerous state and local agencies, nonprofit service providers, faith-based organizations, and governmental entities. In Pasadena, the primary entity responsible for applying for funding for rental assistance programs targeted at homeless individuals is the Pasadena Partnership, which acts as the COC in the City of Pasadena. The City of Pasadena Housing Department administers the housing programs of the Pasadena Partnership.

Stakeholders interviewed consistently noted that it has been difficult for local agencies to develop and implement HUD housing programs that combine housing with supportive services. Barriers to getting homeless individuals with mental health disabilities housed that were identified include legal barriers, procedural delays, and practical difficulties.

Broadly, Stakeholders indicated that the barriers to housing homeless individuals were of two types: 1) over-arching legal, political, funding and process requirements that may be designed to protect clients, but can result in challenges for homeless individuals and the workers seeking to house them; and 2) grassroots problems, i.e., those barriers that many case managers and homeless services staff face daily in dealing with the housing subsidy systems implemented under the laws to address homelessness.

² 2018 Pasadena Homeless Count, 11, *available at* https://pasadenapartnership.org/wp-content/uploads/2018/05/Pasadena-Homeless-Count_2018.pdf. The 2019 Pasadena Homeless Count took place on January 22 and January 23, and results have not yet been revealed.

³ *Id.* at 13.

⁴ *Id.* at 14.

⁵ California Homelessness Statistics, State of Homelessness, total number of people experiencing homelessness, *available at* <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report/california>.

This report is comprised of the following sections:

Methodology – This section describes how and when the information reported here was gathered.

Legal Framework – This section provides an overview of the legal framework under which service providers and communities work to identify housing, provide subsidies, and foster stability in the attempt to house homeless individuals with disabilities.

Barriers to Housing – This section explains the legal barriers and practical barriers specific to individuals with mental health disabilities. Other barriers that may affect homeless individuals regardless of disability are included in Appendix A.

Next Steps – This section offers a next step strategy to begin to resolve some of the barriers that Stakeholders identified as causing housing delays for some of the most vulnerable individuals the laws are designed to protect.

Appendices – Appendix A describes barriers that Stakeholders identified, but which may not be specifically addressed in the body of this report. It should be noted that some of the barriers identified might have a particularly adverse impact on people with mental health disabilities, but might also be more generally applicable. As a result, these barriers might appear both in the body of this report and in Appendix A. Appendix A attempts to focus on barriers related to market, policy, and funding barriers, community challenges, procedural problems and interagency difficulties, all as identified by Stakeholders. Appendix B contains a list of the agencies whose staff MHAS interviewed and/or from whom MHAS solicited input.

2. Methodology

Regarding the methodology used to develop this report, three basic strategies were used for gathering information:

Research – MHAS completed a literature review on the barriers to housing homeless individuals with emphasis on the effectiveness of the Coordinated Entry System (CES), legal research into applicable federal and state law, and review of local public housing authority administrative plans and COC documents.

Public Meetings – MHAS staff and volunteers attended Pasadena area public meetings in which issues related to homelessness were discussed.

Interviews – MHAS interviewed individuals involved in the housing process in Pasadena.

The research completed provided the foundation to identify basic issues to explore in the study and the applicable legal standards. From this background research, MHAS determined the types of information it sought to obtain through interviews, which guided the development of protocols and interview questions that would be posed to Stakeholders.

Public meeting attendance enabled MHAS to identify Stakeholders in the Pasadena community from whom information about local needs and barriers could be obtained. Public meetings attended included various city council meetings at which homelessness issues were discussed.

Stakeholder interviews allowed MHAS to understand how the systems established under federal and state law affected people on a grassroots level. They also provided an understanding of how systems implemented under the law worked from the perspective of the individuals tasked with solving community-wide and individual homelessness challenges. Interviews with Stakeholders included individuals from the agencies and organizations listed in Appendix B.

The Stakeholder Interview Process

As this report is predominantly qualitative in nature, most of its information was obtained through discussions and structured interviews with key individuals in the Pasadena community who work daily with homeless individuals with mental health disabilities.

With respect to the interview process, protocols were tailored to anticipate the information needed from three basic stakeholder groups: 1) social service agencies and mental health providers; 2) CoPHD and Pasadena Partnership participants; and 3) homeless individuals. The information gleaned through these interviews was used to inform subsequent interviews.

Participants: The target population about which MHAS sought to obtain information was low-income people with mental health disabilities who are homeless or at risk of homelessness in Pasadena. In total, approximately 33 Stakeholders were interviewed; 11 were unhoused individuals.

Procedure: MHAS reviewed Pasadena’s existing housing policies and procedures as well as the laws that govern these policies. MHAS also researched the homeless services, mental health and housing provider organizations in the greater Pasadena area to identify stakeholders who could provide useful information on how the existing systems for getting people housed worked, or did not work, in their experience. Once MHAS identified a list of Stakeholders, protocols were written and interviews were scheduled. An attempt was made to tailor protocols to the role an individual stakeholder played in the homelessness-to-housed system.

Analysis of Information Obtained

This report does not purport to be a definitive analysis of the barriers to housing homeless individuals with mental health disabilities in the Pasadena area. Rather, it seeks to provide a snapshot of the barriers to housing as identified by those working with homeless individuals to navigate the Coordinated Entry System (CES)⁶— community leaders and service providers—as well as homeless individuals themselves. Some may disagree with the barriers, but the hope is that this reflection on the experience of those working with homelessness issues in Pasadena will shed light on possible improvements to the systems as they now work.

⁶ Briefly, the Coordinated Entry System is the platform in which services and housing are facilitated to homeless individuals and prioritized based on acuity levels. The CES is described in more detail in the sections that follow.

3. Legal Framework

Federal Laws Addressing Disabilities

People with disabilities have historically faced rampant discrimination and exclusion from all aspects of society, including housing, employment, health care, and public services.⁷ To address disability discrimination, Congress enacted several federal laws: the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act (FHA).⁸ The Fair Housing Act prohibits discrimination based on race, color, religion, sex, familial status, national origin, or disability in any sale, rental, or financing of dwellings.⁹ Title II of the ADA prevents disability discrimination in state and locally-funded public programs, including public housing,¹⁰ while Section 504 of the Rehabilitation Act applies to programs and activities that are federally funded or conducted by an Executive Agency or the United States Postal Service.¹¹

Incorporating these federal laws as a minimum “floor of protection,” California provides further protections for people with disabilities.¹² California expands the FHA’s protected classes and additionally imposes disability discrimination rules on any state-funded programs and activities, as well as on specific housing programs within the state.¹³

In addition to banning intentional and overt discrimination against people with disabilities, state and federal anti-discrimination laws also require covered entities and programs to make reasonable accommodations for people with disabilities—that is, exceptions to policies or procedures that would otherwise interfere with access or participation for individuals with disabilities.¹⁴ An accommodation should be given to someone with a disability who requests one unless the entity receiving the request can demonstrate that providing the accommodation would “fundamentally alter the nature of the entity’s service, program, or activity, or present an undue financial and administrative burden.”¹⁵ The reasonable accommodation process is inherently

⁷ See, e.g., 42 U.S.C. § 12101(a).

⁸ 42 U.S.C. § 12131; 29 U.S.C. § 794; 42 U.S.C. § 3601; Disability Rights Education & Defense Fund (DREDF): Legal Obligations, Model Policies, and Practices to Support Persons with Disabilities in the Coordinated Entry System Process, May 2018, Page 3, available at <https://dredf.org/wp-content/uploads/2018/05/DREDF-Guide-Legal-Obligations-Model-Policies-and-Practices-on-Disability-for-Coordinated-Entry-Systems-May-2018.pdf>.

⁹ 42 U.S.C. §§3601-19; While the FHA applies broadly to most landlords, there are some exemptions – see 42 U.S.C. § 3603(b)(1-2) for certain owner-occupied housing and 42 U.S.C. § 3607 for religious and private club exemptions.

¹⁰ See generally 28 C.F.R. § 35.130.

¹¹ 29 U.S.C. § 794(a).

¹² DREDF, *supra* note 5, at 3.

¹³ *Id.* at Page 3 (referencing CAL. GOV. CODE § 11135 and California’s Fair Employment and Housing Act) (emphasis added); California expands the protected classes to also include source of income, gender, gender expression, gender identity, sexual orientation, age, ancestry, or genetic information.

¹⁴ 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.

¹⁵ See 28 C.F.R. § 35.130(b)(7)(i), 28 C.F.R. § 35.164.

flexible and an individual with a disability can make such a request to any staff member at any time in any reasonable manner, with respect to any particular procedure or policy.¹⁶

Laws Responding to Homelessness: McKinney-Vento Act, the HEARTH Act, and Rental Assistance

The McKinney-Vento Homeless Assistance Act of 1987 established multiple housing and service programs to address homelessness. Congress recognized homelessness as an “immediate and unprecedented crisis,” requiring a multidisciplinary approach in order to address the lack of shelter.¹⁷ The McKinney-Vento Act created the Shelter Plus Care (S+C) program, which offered assistance to homeless people with disabilities, mental illnesses, AIDS, and drug and alcohol addictions by combining housing with supportive services.¹⁸ Specifically, S+C was designed to help ensure the availability of supportive housing opportunities for homeless people with disabilities and their families by providing them with rental assistance.

In 2009, the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act amended the McKinney-Vento Act Homeless Assistance Act.¹⁹ HEARTH expanded upon the definition of homelessness²⁰ and consolidated the three separate homeless assistance programs of S+C, Supportive Housing, and Section 8 Moderate Rehabilitation/Single Room Occupancy (SRO) programs into a single program, known as the Continuum of Care (COC) program.²¹

The HEARTH Act set forth a process through which certain organizations in a particular geographic area could form a planning body to administer various housing and other services to the homeless population in that area.²² HEARTH designated these planning bodies as Continuums of Care, which are comprised of individuals, entities, and organizations,²³ all of whom work together to submit a single application to the U.S. Department of Housing and Urban Development (HUD) with the group’s housing project and related funding proposals designed to meet local needs.²⁴ COCs compete for available HUD funds through this process. HUD scores each project based on the priority it was given in its application, and based on the prior performance of the COC – analyzing its homeless reduction numbers, history of program and service efficacy, and whether program performance measures are in place.²⁵ After scoring, HUD allocates available funds to projects as it deems appropriate.²⁶

¹⁶ DREDF, *supra* note 5, at 12.

¹⁷ 42 U.S.C § 11301(a)(1), (4).

¹⁸ NCH Fact Sheet #18, at Page 3.

¹⁹ *See generally* 24 C.F.R. § 578; 77 F.R. 45421.

²⁰ National Alliance to End Homelessness: Summary of HEARTH Act, “Background,” *available at* <https://endhomelessness.org/resource/summary-of-hearth-act-2/>.

²¹ 77 F.R. 45421; National Low Income Housing Coalition 2017 Advocates’ Guide, at 4-1 – 4-2. *See* 24 C.F.R. § 578.

²² 24 C.F.R. § 578.5(a).

²³ COCs are comprised of local government officials, nonprofit service providers, and faith-based organizations, to name a few.

²⁴ National Low Income Housing Coalition 2017 Advocates’ Guide at 4-1.

²⁵ *Id.* at 4-2.

²⁶ *Id.*

In addition to modifying the funding application process, HEARTH also changed the funding flow from HUD to the state and local levels. Previously, housing grants came from the federal government directly to individual nonprofits or public agencies in a community; HEARTH modified this so that the federal government now provides grants to the local COCs that develop plans to identify strategies to end homelessness. These COCs are then responsible for allocating funds among their sub-recipients. Each year, HUD awards funding to recipients (e.g. states, local governments, and/or instrumentalities of state or local governments), who in turn may contract (or sub-grant) with other organizations or government entities, known as sub-recipients, to carry out the grant's program operations.

Additionally, in accordance with the regulations, the COC must develop written standards that include “[p]olicies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance.”²⁷ In 2014, HUD reiterated the need for a prioritization system in Notice CPD-14-012, in which one of the goals was to establish a priority order to serve those “with the most severe service needs.” To that end, the City of Pasadena has established a set of written standards to guide service workers.²⁸ Notably, these written standards also provide the rules that control the Coordinated Entry System (CES), the primary tool used to interface with and connect the homeless population with disabilities to the housing process and other services.²⁹ These standards provide guidance and assign a point system to prioritize vulnerability, by accounting for factors such as experience with domestic violence, length of homelessness, and degree of disability.³⁰

Permanent Supportive Housing

HEARTH required that COC funding be allocated towards five areas in addressing homelessness: (1) permanent housing, (2) transitional housing, (3) supportive services, (4) Homeless Management Information Systems (HMIS), and (5) homelessness prevention.³¹ This report will focus on permanent supportive housing, a combination of permanent housing and supportive services that integrates the housing component with some form of supportive services in order to help individuals with disabilities locate and maintain stable housing.

²⁷ 77 FR 45422, 45445.

²⁸ Pasadena Partnership to End Homelessness, “Permanent Supportive Housing: Written Standards,” available at https://pasadenapartnership.org/wp-content/uploads/2015/10/PSH_Written-Standards_050316.pdf.

²⁹ *Id.* at 4, 6; 24 C.F.R. § 578.7(a)(8).

³⁰ Pasadena Partnership to End Homelessness, “Permanent Supportive Housing: Written Standards,” at 7-9, available at https://pasadenapartnership.org/wp-content/uploads/2015/10/PSH_Written-Standards_050316.pdf.

³¹ 77 F.R. 45422, 45432; Permanent housing is defined as community-based housing without a designated term limit, terminated only for cause; transitional housing focuses on providing homes that facilitate those experiencing homelessness into permanent housing within 24 months; supportive services includes case management, counseling services, therapy, legal services, and life skills training; HMIS funds focuses on the technical collection and maintenance of the database that service providers use to administer services and maintain logs; preventive services funds focus on relocation and stabilization efforts, including shorter term rental solutions, to prevent those at risk from becoming homeless.

Permanent housing may be comprised of two types: permanent supportive housing (PSH) for individuals with disabilities and rapid re-housing, which allows for short-term, temporary housing.³² The underlying policy goal is to maximize and stabilize the number of individuals in housing. The consolidated COC program funds four separate components of rental assistance to support this: (1) sponsor-based rental assistance, (2) tenant-based rental assistance, (3) project-based rental assistance, and (4) SRO rental assistance.³³ The focus of this report and the qualitative investigation MHAS conducted is on tenant-based rental assistance.

The Shelter Plus Care Component of Tenant-Based Rental Assistance (TBRA)

Under TBRA, a tenant-participant locates a participating housing unit that meets HUD's standards, and the PHA contracts with the owner to make subsidy payments on behalf of the tenant.³⁴ If the tenant-participant later decides to move, he/she may take the rental assistance to a new housing unit.³⁵ TBRA focuses on the tenant, so the assistance is "portable" as the rental subsidy is tied to the individual, not to a specific property. Tenant-participants and housing and service providers may often refer to this assistance as a voucher. This report will focus on TBRA as the voucher system allows for the greatest flexibility for housing options.

Specifically, this report focuses on what was originally known as the S+C component of the numerous types of housing assistance offered by HUD. As enacted, S+C combined rental assistance with supportive services for people with disabilities.³⁶ The HEARTH Act incorporated the traditional S+C rules within the permanent supportive housing component of the COC program model.³⁷ Similar to the traditional S+C policies, the COC program emphasizes combining rental assistance with supportive services in order to transition the homeless individual into independent living.³⁸

The Structural Framework of the Pasadena COC and its Relationship to the City of Pasadena Housing Department and its Administrative Plan

This report and investigative qualitative analysis will focus on the Pasadena COC, of which the Pasadena Partnership is the principal planning entity.³⁹ The Partnership is comprised of over 50

³² *Id.*

³³ 24 C.F.R. § 582.100; Sponsor-based assistance involves a non-profit organization allowing its participants to reside in sponsor-owned or leased units; project-based assistance involves owners of pre-existing housing that agrees to lease subsidized units to program participants – the rental assistance is tied to that unit only; SRO units are single rooms with no sanitation or food preparation facilities, or either, but not both.

³⁴ 24 C.F.R. § 982.1(a)(2).

³⁵ 24 C.F.R. § 982.1(b)(2).

³⁶ 24 C.F.R. § 582.1(a).

³⁷ *See Id.*

³⁸ *Id.* at 45444.

³⁹ 2018 Pasadena Homeless Count, p. 2, available at https://ww5.cityofpasadena.net/housing/wp-content/uploads/sites/3/2018/09/Pasadena-Homeless-Count_2018.pdf.

public and private agencies, which include city officials, non-profit service providers, and faith-based organizations.⁴⁰

At the state and local levels, public housing authorities (PHAs) are tasked with administering HUD's housing programs, including Section 8 and the COC program. While the PHA is responsible for administering the housing portion of the COC program, the COC itself also manages the HMIS and establishes outreach strategies, prevention, and supportive services.⁴¹ It may be helpful to think of the COC program as encompassing several homelessness endeavors and the PHA as primarily responsible for the housing component.

The PHAs are responsible for adopting a written manual of policies and regulations that conform to HUD's requirements relating to housing; these manuals are known as administrative plans.⁴² These plans usually include procedures for selection/admission of housing applicants, policies on the issuance of housing vouchers, and occupancy requirements.⁴³ Generally, administrative plans also detail the PHAs policies on COC programs, including permanent supportive housing, in order to satisfy the COC recordkeeping requirements.⁴⁴

The City of Pasadena's Housing Department (CoPHD) is the public housing authority for the City of Pasadena; it publishes an annual administrative plan⁴⁵ and simultaneously serves as one of the agencies that compose the Pasadena COC.⁴⁶ It is important to reiterate that the CoPHD operates in dual roles – it is one of the collaborating agencies of the Pasadena COC, but also operates independently through its traditional PHA duties.

While the CoPHD and Pasadena COC have independent roles, they share similar responsibilities for administering rental assistance programs. Both are responsible for administering housing subsidies; however, the COC is responsible for addressing homeless individuals specifically,⁴⁷ whereas the regular Section 8 Housing Choice Voucher Program (HCVP) serves the general, low-income population in the PHA's jurisdiction. The rules for each program differ slightly, with the COC program guidelines building in more flexibility in its rules and procedures due to dealing with a more vulnerable tenant population.

In regards to funding allocations, voucher subsidies are generally provided through HUD, which also sets a limit on the amount of grant money given to PHAs using the fair market rent (FMR)

⁴⁰ *Id.*; See also Pasadena Partnership, Committees, available at <https://pasadenapartnership.org/committees/> (indicating that the Partnership is comprised of four different committees: Faith Community, Planning & Research, Housing, and Data & Performance).

⁴¹ 24 C.F.R. § 578.7(c).

⁴² 24 C.F.R. § 982.54(a).

⁴³ *Id.* at (a)(1) – (4).

⁴⁴ 24 C.F.R. 578.103.

⁴⁵ City of Pasadena: 2017 Administrative Plan, at 1-2, available at <https://ww5.cityofpasadena.net/housing/wp-content/uploads/sites/3/2017/04/2017-Administrative-Plan.pdf>.

⁴⁶ City of Pasadena: 2017-2018 Annual Action Plan, at 48, available at <https://ww5.cityofpasadena.net/housing/wp-content/uploads/sites/3/2017/05/PY2017-18-Annual-Action-Plan-Final-Draft.pdf>.

⁴⁷ City of Pasadena: 2017 Administrative Plan, at 20-1.

in the area. Generally, the city's PHA submits the bids on behalf of the recipients/sub-recipients (nonprofit service providers) to HUD, which evaluates bids based on community need and competitive application.⁴⁸

The subsidy grant amount is calculated by multiplying the number of units proposed, times the applicable FMR, times the term of the grant.⁴⁹ If additional funding is needed due to some vouchers exceeding FMR, Stakeholders have reflected that funding must come from other sources. Therefore, the burden is on the PHA and the recipients/sub-recipients to provide as accurate an amount as possible for the funding allocation.

HUD initially required the value of the supportive services be equal or "matched" to that of the rental assistance provided.⁵⁰ Since the HEARTH amendments, the match requirement has been lowered to 25%.⁵¹ This means that, if the participant is receiving \$1000 in rental subsidy, the local recipient/sub-recipient (usually a nonprofit services provider) must provide at least \$250 worth of case management, counseling, mental/physical health care, meals, or other types of assistance.

The Differences between the Continuum of Care Policies and Regular Section 8 Rules and Procedures

Prior S+C grants renewed under the COC program fall under the COC program, but housing providers and workers on the ground often continue to refer to these grants as S+C. This report may use the term interchangeably, but COC program is the correct term. The COC program rules largely parallel the HCVP rules; however, Pasadena's Administrative Plan specifies that, where the rules conflict, CoPHD staff must apply the COC-specific rules.⁵² The rationale for applying the COC program rules in the event of a conflict is that the COC program serves a vulnerable population, often experiencing both homelessness and serious disabilities; accordingly, the greater flexibility inherent in the COC program rules is necessary to maximize housing stability for these participants.⁵³ There are six important differences between COC requirements and HCVP requirements:

Rental Assistance Termination: A COC program participant is to be terminated only as a last resort. All extenuating circumstances must be considered, and increased supportive services should be used as an alternative to rental assistance termination wherever possible.⁵⁴

Absences: A COC program participant may be absent from his/her unit for up to 30 days for any

⁴⁸ See HUD Homeless Continuum of Care, Nat'l Coalition for Homeless Veterans, *available at* http://www.nchv.org/images/uploads/HUD_CoC_brochure_9.14_.04_.pdf.

⁴⁹ 24 C.F.R. § 582.105.

⁵⁰ 24 C.F.R. § 582.1(a).

⁵¹ 77 F.R. 45421, 45423; 24 C.F.R. § 578.73(a).

⁵² CoPHD Rental Assistance Program 2017 Administrative Plan 20-6

⁵³ See "Permanent Supportive Housing: Written Standards," at 4, *available at*

https://pasadenapartnership.org/wp-content/uploads/2015/10/PSH_Written-Standards_050316.pdf.

⁵⁴ City of Pasadena: 2017 Administrative Plan at 20-5; in contrast, *see* 24 C.F.R. § 982.552(b) & (c) regarding mandatory and permissive terminations under the regular HCVP.

reason without penalty⁵⁵ and may be absent for up to 90 days with an excuse.⁵⁶

Landlord Compensation: Landlords accepting COC TBRA vouchers can be compensated for up to 30 days of lost rent and up to the same amount in damages when a tenant vacates.⁵⁷

Voucher Recipient Obligations: In addition to regular obligations under Section 8 rules, COC program participants are obligated to acknowledge their awareness of available supportive services. However, they are not required to take part in supportive services.⁵⁸

Mobility: Section 8 HCVP vouchers follow the portability standard when used out of area, while COC program vouchers follow the mobility standard. The mobility standard will be discussed below.

Voucher Valuation: Unless HUD grants an exception, Section 8 Voucher rents must not exceed 110% of Fair Market Rent (FMR); they must also adhere to the rent reasonableness standard. COC Program rents are only required to follow the rent reasonableness standard. This will also be discussed below.

These differences acknowledge the unique challenges that dealing with a homeless population entails and account for those challenges by incorporating more flexible criteria for locating and maintaining housing. This is particularly evident in the different legal standards used in determining whether a COC program recipient may find housing outside of the COC's jurisdiction and the monetary amounts of the rental subsidy.

Comparing the Federal Mobility and Portability Policies with the Pasadena Continuum of Care's Mobility Policy

The HEARTH Act originally contemplated TBRA moves outside a COC's jurisdiction only under "exceptional circumstances."⁵⁹ Confining TBRA to the COC's geographical area ensured

⁵⁵ City of Pasadena: 2017 Administrative Plan at 20-5; Under the regular HCVP program, families are required to inform the CoPHD "about any family absence from the unit." (6-21).

⁵⁶ City of Pasadena: 2017 Administrative Plan at 20-5.

⁵⁷ *Id.* at 20-7; in contrast, 24 C.F.R. §886.309(d) limits payments to the amount of the vacancy and 80% of a maximum of an additional month.

⁵⁸ *Id.* at 20-5. 24 C.F.R. 582.315(b) permits, but does not require, the occupancy agreement to require supportive services. For a further discussion on the difficulties on enforcing a requirement of supportive services, please refer to "Between the Lines: A Question & Answer Guide on Legal Issues in Supportive Housing," Chapter Five, Section B, Question 2, *available at* https://www.csh.org/wp-content/uploads/2011/12/Tool_BTL_National1.pdf. While that discussion focuses on the older, Shelter Plus Care rules, the new COC rules have not significantly changed – *compare* 24 C.F.R. § 578.53(b)(2) in regards to PSH with 24 C.F.R. § 578.53(b)(4) in regards to rapid rehousing. The former regulation requires that PSH agencies merely make supportive services available to participants, while the latter regulation relates to rapid rehousing agencies mandating that its participants engage in case management services.

⁵⁹ 77 F.R. 45421, 45433-34; for example, allowance for victims of domestic violence at imminent risk of further violence to use their TBRA outside of the COC's geographic area.

that COCs could coordinate delivery of services to the participant in an administratively efficient manner.⁶⁰

In July 2016, HUD determined that confining TBRA within the COC's geographic area limited options for safe and desired housing; therefore, HUD adopted the updated COC Program Interim Rule Amendment to 24 C.F.R. §578.51(c).⁶¹ The COC Program Interim Rule Amendment to §578.51(c) titled "Increasing Mobility Options for Homeless Individuals and Families With Tenant-Based Rental Assistance" (effective July 14, 2016) amended the COC program rules to allow individuals and families to choose housing outside of a COC's geographic area, subject to certain conditions. Specifically, four conditions must be met:

1. The decision to move outside the COC's jurisdiction must be made in consultation between the COC program recipient/sub-recipient and the participant,
2. The recipient can decline the move if the recipient/sub-recipient is unable to meet any of their statutory/regulatory requirements within the new area,
3. The receiving COC is not involved in the decision-making process for the move, and
4. The participant remains in the HMIS system.⁶²

The federal mobility policy for the COC program differs from the Section 8 HCVP requirements governing portability. Renting a unit under Section 8 HCVP outside the jurisdiction of the initial PHA requires considerable coordination and administration between the two initiating/receiving PHAs. Under 24 C.F.R. § 982.355 governing portability of HCVP vouchers, the receiving PHA must administer the voucher, and it has the choice of either absorbing the cost of the ported voucher or billing the initial PHA.⁶³ Under COC mobility, the initial COC decides if the program participant can move outside of its boundaries and, if so, continues to assist the participant in the new area; the "receiving" COC plays no role in the process.⁶⁴

Pasadena's COC mobility rules largely mirror the COC federal policy, with a few additional restrictions. The federal rules do not require a specific proportion of participants to be located within the COC's geographical area. HUD has noted that, even with the expanded mobility option, it expects TBRA to be used primarily within the COC's geographical area⁶⁵; Pasadena has interpreted this to mandate that each recipient/sub-recipient cannot have more than 50% of its participants housed outside the Pasadena COC.⁶⁶ While Pasadena confirms that requests to move outside its COC jurisdiction should only be denied if the recipient/sub-recipient cannot meet COC program requirements, it has narrowed these areas to a list of neighboring cities it has deemed appropriate to move to.⁶⁷ The federal policy states that "[s]ubrecipients receiving TBRA

⁶⁰ *Id.*

⁶¹ 81 F.R. 38581.

⁶² *Id.* at 38583; 24 C.F.R. § 578.51(c).

⁶³ 24 C.F.R. § 982.355(d), (e).

⁶⁴ *See* 24 C.F.R. § 578.51(c)(4).

⁶⁵ 81 F.R. 38581, 38583.

⁶⁶ *Pasadena COC: Tenant-Based Rental Assistance Mobility Policy*, p.1 available at <https://pasadenapartnership.org/wp-content/uploads/2015/10/TBRA-Mobility-Policy.pdf>.

⁶⁷ *Id.* In providing this list of cities (which include Arcadia, Glendale, San Gabriel, West Covina, and so on), Pasadena has presumably evaluated the feasibility of providing services within these areas and of

may determine a larger geographic area ... if they have good reason.”⁶⁸ HUD itself sets no actual limit on the distance that a client can move so long as all the regulatory and statutory requirements are maintained.⁶⁹

Federal Housing Choice Voucher Valuation Policy vs. Continuum of Care Rent Reasonableness Standard

Under the Section 8 HCVP, PHAs set the voucher payment standards (amount of rent the voucher can cover) in their respective jurisdictions within a set range – between 90% and 110% of the Fair Market Rent (FMR) that HUD has assigned for that size unit, in that designated area.⁷⁰ This amount is considered the “basic range” and any amount within this range does not need HUD approval.⁷¹ PHAs must apply a payment standard within HUD’s 90%-110% range, unless they receive HUD approval to create an exception payment standard above 110%.

Both HCVP and the COC program utilize a rent reasonableness standard, but the COC program does not have a set payment standard, which allows for greater flexibility.⁷² Reasonable rent in the COC program is defined as rent that is:

1. Reasonable in comparison to comparable unassisted units, considering location, size, type, quality, amenities, facilities, management, and maintenance, and
2. Not in excess of rents currently being charged by the same owner for comparable unassisted units.⁷³

Each jurisdiction maintains its own database of rents for the area, type of housing, location, size, etc.⁷⁴ PHAs compare a prospective unit’s rent amount to the database rent to determine if the costs are reasonable to approve a COC program TBRA voucher.

4. Barriers to Housing Individuals with Mental Health Disabilities

Through the study of homelessness in Pasadena described in the Methodology section above, the goal was to identify as many barriers to the efficient, effective housing of clients as possible. The barriers discussed here are barriers as perceived and experienced by those who are working “in the trenches” daily to secure housing for themselves or to assist homeless people to become housed in the Pasadena area.

meeting their regulatory and statutory requirements under the COC Program.

⁶⁸ *Id.*

⁶⁹ TBRA Webinar Transcript at 3.

⁷⁰ 24 C.F.R. 982.503(b).

⁷¹ *Id.*

⁷² 24 C.F.R. § 982.507(b). *See* 24 C.F.R. § 582.305(b).

⁷³ 24 C.F.R. § 582.305(b).

⁷⁴ *Id.*

The discussion in the main body of this report will focus on the legal barriers and other barriers identified by Stakeholders that specifically relate to clients who have mental disabilities. Other barriers, including political, policy, funding, market and procedural barriers, are included in Appendix A. It is important to note that this discussion should not be viewed as a definitive discussion of barriers. Rather, the value in this report is that the barriers identified reflect the day-to-day issues faced by those people closest to the challenges of housing individuals—how they understand the rules that guide their work, how they perceive the problems and how they experience the systems that affect their success.

Legal Barriers

Legal barriers are defined as regulatory, statutory, or administrative requirements that may create unnecessary obstacles to obtaining housing for homeless individuals with mental health disabilities. These barriers, as explained by Stakeholders, may be conflicts in interpreting applicable rules and regulations, lack of knowledge regarding applicable laws, or simply restrictive language in the law that creates an impediment to obtaining housing.

Confidentiality Regulations: A myriad of state and federal regulations impose confidentiality obligations on mental health, housing and service providers to protect individual client information.⁷⁵ Given the numerous agencies involved in the effort to house an individual, Stakeholders identify the rules limiting the sharing of information as an impediment to effective collaboration and servicing of client needs. Multiple agencies work with the same individual; yet, workers perceive that they find themselves slowed down or stalled in their work because of confidentiality restrictions. Even with the centralized CES, there is a sense that challenges in sharing information compromise effective work.

Mental Health Services Act (MHSA) Requirements and Priorities: Workers and advocates identified what they perceive as red tape and rigid eligibility rules as a contributing factor in limiting the number of people they can house. One advocate noted that the priorities set for MHSA funding create barriers to maximizing the number of people with mental health disabilities who can be timely housed. Advocates expressed concern about regulatory requirements that limit the availability of housing and focus available resources only to those who are in the most dire physical and mental health situation results in other slightly less severely disabled individuals who are “ready, willing and able” to take advantage of housing being left homeless.⁷⁶

⁷⁵ See generally, 65 FR 82462 (the Privacy Rule enacted after the Health Insurance Portability and Accountability Act of 1996 was passed); 76 FR 76917,76926 (emphasizing that HMIS security standards “are directed to ensure the confidentiality . . . of all HMIS information.”); 24 C.F.R. § 578.103(b)(requiring the COCs to also implement written procedures to ensure confidentiality, on top of the pre-existing requirements under HMIS); CAL. CIV. CODE § 56.10(a) (California’s Confidentiality of Medical Information Act provides broader protections than HIPAA); CAL. WELF. & INST. CODE § 5328 (protecting psychiatric records of individuals who are detained for psychiatric treatment).

⁷⁶ 9 C.C.R. § 3400(b)(1) (allowing for MHSA funds to be used for “individuals/clients with serious mental illness and/or serious emotional disturbance); 9 C.C.R. § 3701(e)(1)(defining “serious” mental illness to be “severe in degree and persistent . . . which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent

Fair Housing Law Application: Confusion about the application of state and federal fair housing laws by housing agencies, service providers and landlords was also noted as causing barriers to housing. Advocates stated that homeless individuals with serious mental health disabilities could be highly unstable. They noted that challenges with street violence, lost legal documents such as identification cards, and missing medication cause instability and reduce a client’s ability to focus and follow up. Advocates related their concern that the longer housing was delayed, the greater the likelihood that a client “goes off the grid,” resulting in an inability to follow up or complete the process. These disability-related issues necessitate the application of fair housing laws that support the granting of reasonable accommodation at every step of the process to ensure equal access to housing.

Failure to apply fair housing laws manifests itself in several ways. First, Stakeholders noted that both clients and advocates often fail to use fair housing laws and reasonable accommodation strategies when they have a sound legal basis for invoking these rights. As a corollary to this concern, Stakeholders noted that many housing providers do not understand their fair housing obligations when considering tenant applications and threatened termination. Fair housing laws require landlords to consider reasonable accommodation requests in a variety of housing contexts, including requirements for proving tenant worthiness, need for an emotional support animal, and threatened eviction. Stakeholders suggested that the lack of understanding of fair housing law on the part of housing providers results in lost housing opportunities or cycling back into homelessness when eviction could be avoided through reasonable accommodation. Stakeholders noted that advocates need to educate housing providers on fair housing rights and reasonable accommodation. When that does not happen, there is a risk of discrimination going unchecked.

Second, Stakeholders suggested that both confusion about how fair housing laws apply and a lack of flexibility in administrative requirements results in lost housing opportunities. Stakeholders noted the possibility that housing authority workers experience confusion about how to apply fair housing laws. There may be a perception that fair housing laws and reasonable accommodation protocols must be followed in administering “regular” Section 8 or HCPV vouchers, but that reasonable accommodation mandates do not apply when working with homeless clients because the COC regulations that govern these individuals’ path to housing build accommodation into the process. Accordingly, workers may mistakenly believe there is no obligation to consider requests for accommodations in the latter program.

Such a view is inconsistent with fair housing laws and can result in clients falling out of the system when they have delays in obtaining housing due to their disabilities. For example, if a client misses a deadline or exceeds the deadline for finding housing because of his disability and loses his housing assistance, the result is that the client effectively must start all over again.

Third, Stakeholders stated that a lack of flexibility in administrative requirements, such as demonstrating proof of birth and other qualifying information, is also a barrier. Clients with serious disabilities have challenges maintaining their documents and paperwork. Adjusting document requirements and allowing for alternative ways to prove eligibility were suggested as

functioning without treatment . . . for a long or indefinite period of time.”)

useful best practices and appropriate reasonable accommodations to invoke. The example cited was of an adult with cognitive impairment who had been adopted from another country as a child. He could not provide a birth certificate and did not remember the name of his adoptive parents. This resulted in his inability to comply with a housing authority requirement to provide a birth certificate so he was denied assistance. The advocate noted that this person was ultimately matched with a building outside of Pasadena that did not have the birth certificate requirement.

Mobility: Stakeholders noted that CoPHD’s application of federal mobility standards may result in a barrier to housing for some clients. In listing eligible areas for mobility, the process by which participants seek housing outside of the COC’s geographic jurisdiction, the CoPHD’s policy in 2018 provided a specified list of cities to which the participant could move.⁷⁷ One advocate indicated that these cities represent a 10-mile radius deemed by the CoPHD to be the maximum distance allowed. The advocate thought that perhaps the justification for this limitation was that any greater distance would impede effective coordination of services to the participant under the COC program. This geographic limit seems to be a local decision that is not mandated by HUD regulation. Given the lack of affordable housing stock in Southern California and Pasadena specifically, setting a 10-mile or city-specific limit on where assistance can be used may unnecessarily reduce attractive and affordable options, slowing a client’s effort to be housed. While the Pasadena Partnership policy obeys the letter of the law in allowing for housing choice outside of the COC’s geographic area, current restrictions placed on eligible areas for mobility may impose unnecessary limitations not required by federal law.

Advocates noted that a further limitation that the Pasadena COC imposes on the mobility process is requiring that no more than 50 percent of the units for which it authorizes TBRA assistance can be located outside of the COC’s geographic area.⁷⁸ That is, advocates indicated that at least 50% of the total number of TBRA “vouchers” that the CoPHD and other local nonprofit organizations administer must be located in the Pasadena COC jurisdiction.⁷⁹ Under the COC regulations for using TBRA in a different area, the client, upon consultation with the recipient/sub-recipient, determines whether to use their TBRA assistance outside of the COC’s geographic area.⁸⁰

In those situations in which a participant finds a unit outside the COC’s geographic area, but wants to continue TBRA assistance, federal guidelines allow the participant to continue assistance so long as the unit is in a location where the recipient/sub-recipient can meet its statutory and regulatory requirements; federal law imposes no actual quota or requirement on the number of TBRA units to be used in a particular area.⁸¹ Overall, the Pasadena COC’s written

⁷⁷ *Pasadena COC: Tenant-Based Rental Assistance Mobility Policy*, pp.1-2 available at <https://pasadenapartnership.org/wp-content/uploads/2015/10/TBRA-Mobility-Policy.pdf>; City of Pasadena: 2017 Administrative Plan, at 20-3, available at <https://ww5.cityofpasadena.net/housing/wp-content/uploads/sites/3/2017/04/2017-Administrative-Plan.pdf>.

⁷⁸ *Pasadena COC: Tenant-Based Rental Assistance Mobility Policy*, p.1, available at <https://pasadenapartnership.org/wp-content/uploads/2015/10/TBRA-Mobility-Policy.pdf>;

⁷⁹ *See Id.*

⁸⁰ 24 C.F.R. § 578.51(c)(4).

⁸¹ 81 FR 38581, 38583 (noting that HUD “anticipates that tenant-based rental assistance will be used

policies on mobility track the federal guidelines; however, one Pasadena policy element—limiting eligible areas for TBRA mobility—is more restrictive than the federal guidelines for mobility.⁸²

While mobility is an option for expanding the scope of the subsidy, Stakeholders have noted that administrative difficulties can arise from this geographic expansion, e.g., staff responsible for providing supportive services have difficulty meeting their service obligations because of the challenges posed by providing service to clients living far away.

Legal Definition of Homelessness: Stakeholders noted that some legal program requirements may unnecessarily prevent clients from being eligible for TBRA assistance. For example, HUD's definition of homelessness may exclude vulnerable classes of individuals, such as individuals who sleep on friends' couches or those in imminent risk of becoming homeless.⁸³ While the HEARTH Act clarified the McKinney-Vento Act's definition of homelessness,⁸⁴ it also limited the definition through requiring strict timeframes and/or cutoff ages that must be met before an individual is considered homeless.⁸⁵

Non-Legal Population-Specific Barriers

While a more exhaustive list of barriers that affect clients, including clients with mental health disabilities, is included in Appendix A, the following barriers noted by advocates are included here to shed light on the breadth and depth of barriers that have a particularly adverse effect on clients with mental health disabilities.

Stigma-Related Barriers: Stakeholders indicated that landlords, community members and others would prefer not to house clients with mental health disabilities in what little affordable housing exists in the community because of stereotypes, myths, and/or stigma related to mental health disabilities. Even when landlords are aware of their obligations not to discriminate under fair housing laws, they resist renting to clients if they are aware of mental health disabilities.

Barriers Noted by Advocates and Clients: Advocates noted that clients with mental health disabilities often have unique and specific concerns about the housing process that can create barriers, although some of the concerns listed below relate to unhoused individuals, regardless of disability. For example, housing navigators connect most readily with clients who are responsive. Advocates noted that clients with mental health disabilities can become difficult to

principally within the CoC's geographic area”).

⁸² Compare Pasadena COC: Tenant-Based Rental Assistance Mobility Policy, p.1, available at <https://pasadenapartnership.org/wp-content/uploads/2015/10/TBRA-Mobility-Policy.pdf> with 81 FR 38581, 38583.

⁸³ See 76 FR 75994, 75997 & 76001 (comments expressing concern that HUD's categories of homelessness do not include individuals who are “couch-surfing”).

⁸⁴ Public Law 100-77, 101 STAT. 482, 485, available at <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg482.pdf>.

⁸⁵ For example, 24 C.F.R. § 578.3 provides that imminent danger of losing a primary nighttime residence means within 14 days of the homeless assistance application and unaccompanied youth under 25 may need to show housing instability within 60 days.

contact during the process, causing them to “fall off the grid.” Or, clients may lose their medications or go off medication temporarily resulting in inconsistent communication with a worker or behavioral difficulties.

Below are some of the concerns that advocates and clients noted that make a client wary of seeking housing or working with advocates to become housed.

- Clients may fear living inside and being alone inside because no one will know if they are in distress.
- Clients fear their inability to meet tenant duties, e.g., they lack familiarity with the process of paying rent.
- Clients fear having difficulty following “house” rules.
- When available housing is shared, clients are concerned about living in close quarters that do not take into account disability-related needs.
- Clients fear loss of community connections to family, services, and familiar surroundings when prospective housing is outside of the client’s local community.
- Clients may lack trust in case management teams or feel intimidated in working with case management teams who seek to help or support the client.
- Clients feel confusion in working with multiple case management teams throughout the CES process, which causes trust issues, especially when the housing and services aspects of the CES process are separate and handled by different organizations.
- The fact that the CES requires a client to answer deeply personal questions regarding client’s vulnerability, history, and background makes it difficult for workers to build trust with some clients.
- A client’s lack of financial resources can result in the inability to qualify for housing or stay connected with workers, e.g., inability to afford a cell phone, lack of money to pay for TB test so client can take advantage of bed that might become available.
- Lack of trauma-informed care and appropriate training for workers can alienate clients, especially women, and deter them from complying with systems and processes. Some clients felt that workers lacked empathy.
- When clients work with different treatment teams, they can have inconsistent treatment plans that can interfere with housing efforts, either because of differing diagnoses or identification of different support service or daily living needs.
- Document-intensive procedures create various barriers to both clients and workers. Such procedures are overwhelming with forms that can be hard to read and understand for most of the homeless population much less people with disabilities or immigrant families. Often, clients do not know when to apply for what, how to fill out the required paperwork, where to send the paperwork, or what the next steps are. One client stated that, when she sought mental health services, she could not understand the papers she was given to fill out.
- Sometimes CES and other housing support workers have such heavy caseloads that they are not able to provide the types of communication and follow up and/or accommodations that clients with mental health disabilities need to foster their consistent participation throughout the process until they are housed.

The following barriers to maintaining housing once a client is housed were noted.

- Insufficient supportive services can result in a housing failure because clients with mental health disabilities can have high needs in managing their public benefits, staying within resource limits, and dealing with personal and family health issues. When these needs are not properly addressed, payment of rent and meeting other tenant obligations can become a challenge. When a client is about to be evicted or has recently been evicted, supportive services can be useful in connecting a client with resources needed to keep eviction off the client's record so housing subsidies are not terminated.
- Landlords can become frustrated with a client who asserts his/her right to an emotional support animal, making the landlord/tenant relationship challenging from the start and sometimes resulting in retaliation, e.g., landlord looks for reasons to evict the client.
- If a S+C participant decompensates and fails to pay rent or violates the program rules, he/she may be barred from applying for Section 8 for a set period of time, which essentially punishes an individual for his/her mental health disability.

5. Next Steps and Proposed Recommendations

Stakeholders working in the Pasadena housing community, particularly those who work directly with clients who have mental health disabilities, reflected consistently on their clients' specific struggles and challenges as they attempt to work with service providers, provide required documentation, maintain consistent income (whether through employment or public benefits) and stay connected with the systems designed to help them during the housing process. Stakeholders noted inflexibility in the systems designed to help clients, borne at least in part from a system overloaded and bottlenecked as the sheer number of people needing housing dwarfs the staff and systems designed to accommodate them. They commonly noted an often-unintended lack of accommodation built into the systems designed to serve the most vulnerable clients that creates an unending loop of disconnection and starting over.

These challenges exist even as the City of Pasadena has engaged in positive efforts to address some of the market barriers to homelessness. The recent Measure H distribution of funds and the City Council's move towards approving housing projects indicate an affirmative approach to alleviate some of the market barriers.⁸⁶ The CoPHD had also decided to incorporate Los Angeles County's Homeless Incentive Program into its process, which aims to encourage landlord participation in housing subsidy programs, i.e., to encourage landlords to rent to homeless individuals with vouchers. The program allows for holding fees of one month's rent and assistance in credit checks, as well as damage claim assistance to minimize losses and provide assurance.

To build upon these efforts by Pasadena to reduce homelessness, MHAS proposes the following to ameliorate some of the specific barriers that exist to housing individuals with mental health

⁸⁶ Chris Lindahl, *Pasadena Homeless Services Get \$1.33 million Boost From County Tax Dollars*, PASADENA STAR-NEWS (Jan. 15, 2019), available at <https://www.pasadenastarnews.com/2019/01/15/pasadena-homeless-services-get-1-33-million-boost-from-county-tax-dollars>.

disabilities: a community-wide approach to affirmatively further fair housing in the Pasadena community. This next step would involve collaboration and cooperation among and between members and staff of Pasadena Partnership, CoPHD and other interested housing advocates to review key elements of the homeless-to-housed system as it works in Pasadena. The goal of the collaboration would be to develop a set of best practices to incorporate reasonable accommodation strategies into daily practice at each stage of the housing process, from entry into CES to identifying housing programs, from clients' completion of paperwork and forms to interviewing for housing.

The collaboration would include review of current processes in place to assess how to more seamlessly incorporate fair housing principles into daily practice, as well as community-wide training of landlords, workers and staff at relevant agencies to enhance understanding of how fair housing principles can improve the systems at each stage of the process. By taking a holistic approach to reviewing the current practices and identifying changes in forms, process and training, current practice could be improved and result in greater likelihood of successful housing outcomes for the most vulnerable in the community.

This collaboration potentially offers support to Pasadena as it moves forward in the next few years to comply with new law embodied in California Assembly Bill 686 (AB 686). As background, in Section 808 of the 1968 federal Fair Housing Act, Congress imposed a duty on HUD to "affirmative . . . further the purposes" of the act.⁸⁷ To that end, HUD issued a regulation in 2015, designed to streamline the process and guide local and state governments in assessing fair housing impediments.⁸⁸ One of these tools was the introduction of an Assessment of Fair Housing (AFH) tool, as well as detailed analytics and data to assist in identifying and addressing trends.⁸⁹

When HUD recently suspended the submission requirement of the assessments,⁹⁰ California responded by enacting a similar duty under state law.⁹¹ By 2021, California's law requires local PHAs to submit a general plan, detailing plans, goals, and efforts to limit discrimination.⁹² Under California Government Code § 65583(c)(3), cities are also required to develop a program to identify constraints to the housing process, including providing "reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities."⁹³ MHAS' proposed collaboration may help inform the city of Pasadena as it begins to draft its general plan to comply with AB 686's requirement to further fair housing.

⁸⁷ 42 U.S.C. § 3608(d).

⁸⁸ See *Generally* 80 FR 42272;

⁸⁹ *Id.* at 42273.

⁹⁰ See 83 FR 683 (extending the submission deadline until after October 2020).

⁹¹ California Assembly Bill AB 686 (2018).

⁹² *Id.*

⁹³ CAL. GOV'T CODE §65583(c)(3).

Appendix A

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OTHER IDENTIFIED BARRIERS

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Other Identified Barriers

A. Market, Funding & Policy Barriers

Market barriers are commonly driven by economic factors that determine housing availability through property development. Unlike funding barriers, market barriers relate to the supply, demand, and availability of housing in a general area. A frequently mentioned market barrier was lack of affordable housing stock, exacerbated by lack of financial incentives for landlords both to build more affordable housing and to participate in subsidized housing programs.

Market/Supply and Demand: The market barrier cited most frequently by Stakeholders was the lack of affordable housing. The lack of affordable housing in Pasadena creates or exacerbates other barriers that homeless individuals face in trying to obtain housing.

- Several advocates have noted that the city has about a 1.5% - 2% vacancy rate, of which only a few units are truly affordable and/or accessible.
- Among vacant properties, it is difficult to locate a physical space that both accommodates clients with disabilities and is affordable. Long-time Pasadena residents are often forced to take housing outside of Pasadena due to the lack of housing options locally.
- The scarcity of housing resources undercuts effectiveness of fair housing laws to protect client interests. One advocate noted that, even with legal protections such as reasonable accommodations that give clients more time to find a unit, the lack of housing resources often precludes location of a suitable unit. This creates one of the bottlenecks in the system in which advocates may obtain a voucher for a client, but the client is not matched quickly enough with housing to be able to utilize the voucher.
- Single family zoning restrictions impede the construction of multi-unit, affordable housing.

Funding Problems: Some Stakeholders cited the rigid requirements placed on funding as contributing to housing barriers.

- While permanent supportive housing is the ideal long-term solution, rapid re-housing can serve as a meaningful short-term response to a client who may need early intervention. HUD's homelessness funding is aimed primarily at addressing chronic homelessness and, therefore, rapid re-housing is underfunded, preventing vulnerable individuals from receiving the support needed to avoid falling into chronic homelessness.
 - Several Stakeholders mentioned that organizations are limiting client intakes, especially clients of lower acuity, due to funding requirements.
 - Some unhoused individuals expressed the sentiment that service providers informed them that housing was unavailable because they were not sufficiently disabled.
- Stakeholders noted that HUD funding can require CES agencies to meet unrealistic deliverable goals for the amount of money provided. An organization may be able to

meet its CES contract deliverables but only by finding county and state funding resources to complement its HUD funding and these complementary resources can be difficult to find.

- Some Stakeholders stated that they understand that HUD grants cities discretionary money. They indicated a concern that this money is used more for additional subsidies than construction of new housing, which exacerbates the lack of housing stock. As a result, leasing up becomes even more difficult.
- The at-risk, financially unstable population in Pasadena includes families living paycheck-to-paycheck. Service providers see them struggle to maintain their housing because there are not enough homelessness prevention funds. Many of these families are pushed out of Pasadena or onto the streets where they join other homeless families waiting for housing vouchers.
- One advocate noted that, even though housing options may be available, clients cannot take advantage of them because Pasadena's Voucher Payment Standard is lower than market rents.
- Some stakeholders felt that Pasadena's budgeting priorities posed a barrier—that is, Pasadena should allocate more of its county, state and federal funding to housing; the low priority placed on affordable housing should be reconsidered during annual budget reviews.⁹⁴
- Stakeholders indicated concern that, because funding is limited, some agencies may be prioritizing clients they will serve based on factors such as whether the client is likely to manage his funds responsibly and whether the client will utilize the agency's other resources. Such decision-making is likely to have an adverse affect on clients with mental health disabilities who may not meet these types of agency priorities.

Tenancy and Program Policy Barriers to Entry: Lack of financial resources, together with restrictive policies, geographic challenges and eligibility requirements, can pose barriers.

- Initial tenancy requirements can serve as a barrier to housing individuals with mental health disabilities. One Stakeholder noted that a family that she worked with slept in a van, while saving up money for the security deposit and first month's rent that landlords require.
- One property management group required a client to provide three months' worth of pay stubs when the client had only recently started a seasonal job.
- Lack of resources for the transition to housing can drive individuals with mental disabilities away from the city and some clients may be forced to accept housing placements in nursing homes, group homes, or other care institutions because that is the only realistic option available to them. These establishments may vary in the level of care provided. Often, the only suitable housing placement option is a nursing home, even

⁹⁴ See FY 2018 Adopted Budget, Housing, Section 13, Page 4 available at <https://www.cityofpasadena.net/finance/wp-content/uploads/sites/27/2018-13-Housing.pdf>. The 2018 general fund was approximately \$230 million, see City of Pasadena, FY 2018 Budget in Brief, 7, available at <https://www.cityofpasadena.net/finance/wp-content/uploads/sites/27/FY-2018-Budget-in-Brief-1.pdf>.

for young persons with disabilities, which can worsen mental health symptoms or developmental issues.⁹⁵

- While there may be available units outside of Pasadena, moving out of the area can result in the client being cut off from social and local support networks that would support stability once housed. One Stakeholder noted that clients need “the village” more than just the caseworker. Programs such as Friends In Deed’s The Women’s Room that support clients from homelessness through location of housing to stability and rely on unrestricted funding serve as the much needed friend or village that can be critical to a client’s successful transition to housed independence.
- Some clients stated that they turn down housing placements in surrounding areas like Skid Row and South Central Los Angeles because they would rather remain homeless in Pasadena where they feel comfortable and safe and have a support system. Being cut off from networks through relocation to a new area was noted as a particular concern for transitional age youth (TAY).
- Working with TAY youth requires specialized training so many agencies turn away younger clients, claiming unsuitability for placement. Another concern noted regarding TAY youth was that the Department of Child and Family Services is not involved with the CES so there may be a “gray area” in situations where foster children become homeless, but may not be eligible under the CES.
- Numerous clients expressed reservations about living in a shelter – one client described it as being too rowdy, while another described it almost “like jail,” with numerous “pat-downs,” numerous interactions with strangers, and no privacy. Discomfort with these processes can be a barrier to getting homeless individuals to start working with the systems designed to serve them.

Landlord/Developer Incentives: There is a lack of incentives both to build affordable housing and to rent/lease affordable units to homeless individuals with mental health disabilities. Various Stakeholders commented that, with rising rent, developers are not sufficiently incentivized to build affordable housing as it is not profitable compared to regular residential or commercial uses.

- The hesitancy to rent to clients with housing vouchers seems to center around excessive government paperwork, annual inspections, stringent guidelines, and procedural burdens.
- For many landlords, the burdens of housing vouchers and working with homeless clients outweigh the government subsidy. Even if a voucher covers 100% of a client’s rent, landlords may nonetheless choose to focus on the clients’ characteristics or circumstances and refuse to rent to them (e.g. younger clients or clients with children may be deemed rowdy or irresponsible.) COC program vouchers impose additional procedural safeguards for participants so landlords may be even more wary of accepting these vouchers.

⁹⁵ See David C. Grabowski et al., *Quality of Mental Health Care for Nursing Home Residents: A Literature Review*, 67(6) MED. CARE RESEARCH & REV. 627, 640 (2010).

- Stakeholders noted that participating in the COC subsidy program typically means a landlord must accept lower rent as the subsidy amount is capped based on the rent reasonableness standard.

Community Barriers

Community barriers focus on difficulties within the community itself that contribute to or exacerbate barriers to housing. Such barriers are often multi-faceted and complex, often involving popular opinion, institutional barriers, and political motivation.

Political Will: Many Stakeholders cited that, while Pasadena voters may want to help the homeless, they do not want to house them in their own neighborhoods. This "not in my back yard" (NIMBY) attitude delays low-income housing and is not unique to Pasadena. Stakeholders noted that NIMBYism delays approval of affordable housing projects as councilmembers try to appease their constituencies.

- In recent months, the city of Pasadena donated \$472,000 of its housing money to Los Angeles County when it had failed to identify an “extremely low income housing project.”⁹⁶
- Rezoning efforts to allow for more affordable housing or accessory dwelling units that attach to single-family homes have been met with resistance.
- In 2016, the city of Pasadena enacted an ordinance that effectively outlawed pan-handling.⁹⁷ That same ordinance also prohibited personal property from being left in any public areas, allowing the city would confiscate such property and hold it for a 30-day period.⁹⁸ The ordinance was met with opposition.⁹⁹
- While in June 2018 a decision on a proposal to lower the maximum building height for all new developments in Pasadena was deferred, some Stakeholders felt that the proposal for such a height limit was intended to bar affordable housing projects, which must be tall in order to accommodate the amount of units necessary to effectively make them affordable.¹⁰⁰

Heritage Square South, a vacant parcel located in northwest Pasadena, was noted as an example of how long it takes for projects to move forward, even when property is underutilized.¹⁰¹ One

⁹⁶ Catherine Bauknight, *Absent a Project in the Works, City Turns Over More Than \$472,000 to County for Homeless Housing Project* (June 21, 2018), PASADENA WEEKLY, available at <https://www.pasadenaweekly.com/2018/06/21/absent-a-project-in-the-works-city-turns-over-more-than-472000-to-county-for-homeless-housing-project/>.

⁹⁷ Pasadena, California, Municipal Code § 12.12.080(C).

⁹⁸ Pasadena, California, Municipal Code § 12.12.080(B).

⁹⁹ See generally Ordinance No. 7287, 11-51, available at <https://www.cityofpasadena.net/public-notices/wp-content/uploads/sites/16/2016-11-14-ORDINANCE-7287.pdf>.

¹⁰⁰ Hayley Munguia, *Pasadena Puts Off Decision to Limit Residential Building Heights* (June 12, 2018), PASADENA NOW, available at <https://www.pasadenanow.com/2018/06/12/pasadena-puts-off-decision-to-limit-residential-building-heights/>.

¹⁰¹ Eddie Rivera, *City Council Approves Working With Bridge Housing on Heritage Square South Project* (January 29, 2019), PASADENA NEWS NOW, available at <http://www.pasadenanow.com/main/city->

Stakeholder described it this way: The Heritage Square South parcel had remained vacant for years; finally, in 2018, the city offered numerous options for its use, including selling the property to commercial developers and building affordable housing. The issue was ultimately referred to the Economic Development and Technology Subcommittee for further evaluation, and ultimately approved for mixed-use development in early 2019.

Overconcentration: Stakeholders have expressed concern that the term “over concentration” has been used as a justification against building more affordable housing.¹⁰² Some Stakeholders noted that councilmembers feared building too many affordable units in a particular area, even though Pasadena’s Inclusionary Housing Policy requires developers to allocate a specific portion of their developments to low-income housing.¹⁰³

False Perceptions: Homeowners perceive that their property values will go down if they allow more formerly homeless individuals to become housed or to receive services in their neighborhoods. According to many Stakeholders, this perception is incorrect, as shown by economic studies.¹⁰⁴ Stakeholders also referenced that many homeowners felt that building affordable housing in their area would promote higher incidents of crime, when in fact, research has shown an opposite effect, depending on the development location.¹⁰⁵

- Numerous Stakeholders suggested that that it would be helpful if the City Council would take a greater leadership role in educating the public to overcome the commonly-held misconceptions that low-income housing reduces property values in adjacent or nearby areas.¹⁰⁶ Suggestions offered included proactively publicizing available data about the minimal effect housing formerly homeless individuals would have on surrounding property values.

[council-approves-working-with-bridge-housing-on-heritage-square-south-project/#.XFMp7VVKgdU](#) (indicating that the state of California designated the site as housing asset for affordable housing in 2013 and it was only recently that the site was approved for senior housing with mixed-use components).

¹⁰² *City of Pasadena Inclusionary Housing Regulations* (Dec. 26, 2017), Section IV(B)(3)(a)(v) (defining over concentration).

¹⁰³ See *City of Pasadena Inclusionary Housing Regulations* (Dec. 26, 2017).

¹⁰⁴ Arch City Development, *Permanent Supportive Housing Impact Analysis*, NAT’L CHURCH RESIDENCES, p. 64 (Sept. 2013), available at <https://shnny.org/uploads/Columbus-NIMBY-Study-2013.pdf>; Amy Armstrong et al., *The Impact of Supportive Housing on Surrounding Neighborhoods: Evidence from New York City*, FURMAN CENTER FOR REAL ESTATE & URBAN POLICY: NEW YORK UNIVERSITY, 6-8 (Nov. 2008), available at <http://furmancenter.org/research/publication/the-impact-of-supportive-housing-on-surrounding-neighborhoods-evidence>; See George Galster et al., *The Impacts of Supportive Housing on Neighborhoods and Neighbors in Denver*, U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, p. 116 (Oct. 1999), available at https://www.huduser.gov/Publications/pdf/support_1.pdf.

¹⁰⁵ Rebecca Diamond & Tim McQuade, *Who Wants Affordable Housing in Their Backyard? An Equilibrium Analysis of Low Income Property Development* (July 2015), Stanford Graduate School of Business, at 30.

¹⁰⁶ *Id.*

Procedural/CES Barriers

Procedural barriers involve challenges in the processes designed to assist a client to obtain housing and predominantly focus on the Coordinated Entry System (CES). The Pasadena COC uses the Vulnerability Index – Service Prioritization Decision Assistant Tool (VI-SPDAT) in the CES, a multi-factor analysis that ranks individuals within its system based upon their vulnerability score, awarding points for family size, type of disabilities, domestic violence, age, and so on.

Lengthy Waitlist: Many advocates commented that the CES is inundated with intakes, and there is not enough staff or funding to service each client effectively or promptly. Due to the long waitlist for housing vouchers, some organizations have stopped client intakes because it can take years – assuming a client manages to maintain contact – before getting housed.

The Homeless Management Information System (HMIS) is designed to serve as a database so that all providers can know what services a client has accessed in order to prevent “double dipping” of services; however, some service providers opt out of HMIS and work within their own internal systems. CES’s bottlenecked system has had a chilling effect on both service provider and client engagement. This can lead to duplication of efforts.

Advocates noted that, even if clients decide to wait out their time in CES, many will lose contact (i.e. lose their phones, get their documents and IDs stolen, change mailing addresses, lack access to e-mail, lack funds to get new document copies, etc.), given the transient nature of homelessness. These problems can compound and build on one another. For example, one client noted that his phone service was hacked and service interrupted. To restore service, he needed a driver’s license, but had lost it so he was trying to work with his case manager to get a California ID. However, the agency that his case manager worked at had adopted a policy of disallowing shopping carts on site. Since he was afraid of losing his belongings if he visited his case manager and had to leave his cart unprotected, he had not seen her for some time.

- The long waitlists and document-intensive procedures also deter clients from trusting caseworkers and complying with the system. The deadlines, different programming requirements, complicated forms, and multiple agencies that can be involved create confusion, not only for clients, but within the staff at service providers as well.
- Advocates noted that there are not enough housing navigators in the system, which makes it difficult for the current limited number of navigators to take the additional time needed to support people with mental health disabilities. One Stakeholder noted that it can take months before clients are assigned to a housing navigator.
- While outreach efforts may be growing, the system has provided for insufficient intermediate staff to do appropriate case management and subsequent steps after initial intake.
 - Some Stakeholders noted that their housing staff is also acting in other roles, including case management and other administrative tasks.
- An advocate noted that the time from initial intake to when a housing match is made takes an average of about six to nine months. In a span of nine months, one worker noted being able to identify housing for only four individuals out of a possible 36 clients.

- While service providers build relationships with their clients, the HMIS and CES do not account for this. After a service provider enters the client into CES, there is no guarantee that the client will be referred back to the service provider that helped the client with the intake. This can erode trust with clients, who must deal with multiple agencies.

Inefficiencies and Lack of Updates: Stakeholders indicated that the CES needs modification or updating to be able to handle the volume of clients who need assistance. Homeless clients express skepticism about the effectiveness of the system, choosing to ignore it altogether in hopes of finding something more efficient. Concern was expressed about how the CES works for TAY youth.

- One Stakeholder suggested that written policy may differ from actual practice. The Stakeholder had been unfamiliar with a 15-day written policy on holding turnover beds for COC program participants.¹⁰⁷ She indicated that timeframes were not strictly enforced, suggesting two possible scenarios: housing advocates may be taking longer than 15 days to fill these beds, in which homeless individuals may not be receiving a bed; or the beds are filled with the general homeless population, rather than COC participants as intended.
- The CES is only as accurate as the information entered into the system; advocates noted that notes are sparse and some clients' acuity scores may be inaccurate due to inadequate assessments.
- The VI-SPDAT does not account for cultural or discretionary issues. One advocate commented that, when she rearranged the questions and asked them in a different manner, the same client received a higher acuity score.
- TAY youth who experience their first psychotic break can be denied access to youth-specific programs, such as the Independent Living Program, and forced into CES.

Interagency Barriers

Interagency barriers may arise once a client engages with services provided by nonprofit agencies. Under the COC model, numerous agencies and entities are involved to provide services to homeless individuals with mental health disabilities. This creates inherent difficulties in communication, implementation, and follow-up with regard to the services provided to the client.

Communication Difficulties/Differing Rules: Several Stakeholders complained of dealing with red tape since the COC is regulated at federal, state, and local levels. Numerous agencies interact horizontally within each level, which can result in imperfect communication and confusion. In addition, confusion sometimes occurs when HCVP and COC rules are conflated.

¹⁰⁷ Pasadena Partnership to End Homelessness, "Coordinated Entry System (CES): Written Standards," at 6, available at https://pasadenapartnership.org/wp-content/uploads/2015/10/CES_Written-Standards.pdf (Aug. 2016) (requiring that COC beds must be held "open for a period of 15 days" while the housing matcher consults the prioritization list for a client who is "chronically homeless.").

- Housing navigators and matchers may disagree on whether there is sufficient information from a client to begin the housing search.
- Even when the CES refers clients to supportive services like mental health care, there can be delays with receiving the client's file or in coordinating treatment with the client's eventual housing placement.
- When a client is transitioning from temporary services to permanent housing, problems with effective collaboration between agencies can become a barrier and this is often the point where loss of client contact is at its highest risk.
- A Stakeholder commented that many agencies have their own internal policy or criteria before accepting a client; some organizations may not service children, some may require a "211" phone referral before providing service, etc.
- The youth CES is new and so those clients must usually go to several locations to be assessed. As the youth are not informed of the process, this can further their confusion about the roles of each organization, especially since organizations who regularly deal with youth, such as DCFS, are not involved.
- The CES does not consider the originating region. Once in the system, the client may never interact with the "entering" agency again, forcing them to interact with multiple agencies and start over in building relationships. For homeless individuals with mental health disabilities, this interagency barrier can delay and limit services that would otherwise be effective.
- A client struggling with substance abuse stated that he (1) could not enroll in a drug treatment program unless he was sober for 24-48 hours, (2) could not be conserved because he was not in the mental health system, and (3) was not in the mental health system because he could not access a psychiatrist because he was too unstable due to drug use. The client indicated the service organization would not put him in housing without drug rehabilitation or mental health treatment because he "could harm the community" and add to the persistent mental health stigma of homelessness.
- One advocate was working with a client who had his ID and Social Security card, but the housing project required proof of permanent residency. The client declined to visit the government immigration office to get the required document as he felt he did not need immigration documentation. As a result, his case stalled.

**Appendix B
Agencies Interviewed**

Organization	Type of Organization
Affordable Housing Services	Non-profit Services Provider
City of Pasadena, Accessibility and Disability Resources	Government
City of Pasadena, Housing Department	Government
City of Pasadena, Public Health Department	Government
Friends In Deed	Non-profit Services Provider
Friends In Deed, The Women's Room	Supportive Services for Women
Hathaway-Sycamores	Child and Family Services
Housing Works	Non-profit Services Provider
Lake Avenue Church	Faith-Based Organization
Pacific Clinics	Counseling and Mental Health Services
Rose City Church	Faith-Based Organization
Salvation Army	Non-profit Services Provider
Union Station	Non-profit Services Provider
Union Station, Bad Weather Shelter	Shelter Services
Urban Initiatives	Non-profit Academic Research