



David Zappasodi
Senior Vice President and Chief Operating Officer
Dallas Housing Authority
3939 N. Hampton Road
Dallas, TX 75212

Re: 70 FR 59907

Dear Mr. Zappasodi,

On 7/31/16 Dallas Housing Authority publically announced the RFP SECTION 8 PROJECT-BASED VOUCHER (PBV) ASSISTANCE FOR NEIGHBORHOOD HOUSING PILOT PROGRAM OF PERMANENT SUPPORTIVE HOUSING FOR PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

This RFP is meant to increase single-family housing options for adults with intellectual/developmental disabilities in Collin, Dallas, Denton, Ellis, Kaufman, Rockwall, and Tarrant Counties.

Troy Broussard, President, DHA said that DHA is discontinuing this RFP and replacing it with an RFP for multi-family housing PBVs. Mr. Broussard cites a HUD response for his decision; specifically a comment in the 2005 Federal Register (70 FR 59907) focusing on the misuse of PBVs by PBV homeowners who lease to relatives. <https://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf>

70 FR 59907 states:

Comment: One commenter stated that the prohibition on renting to the owner's relatives in proposed § 983.209(e) should be subject to an exception when necessary to make a reasonable accommodation, as in current 24 CFR 982.306(d).

HUD Response: The comment was not adopted. HUD intentionally differentiates in this case between the tenant-based voucher and project-based voucher programs. To allow an owner of a project-based voucher development to rent to close family relatives (whether disabled or not) creates a systematic incentive to owners to misuse the program. Persons requesting a reasonable accommodation in policies in order to effectively participate in the housing choice voucher program are not harmed by restricting the exception to renting to relatives to the tenant-based program.

Issue 1: To allow an owner of a project-based voucher development to rent to close family relatives (whether disabled or not) creates a systematic incentive to owners to misuse the program

The risk of misuse and fraud in PBV's for people with disabilities is extremely low. There are several agencies/individuals monitoring the PBV home to ensure the tenants are taken care of. Each of is aware of the PBV contract. The government organizations submit periodic reports on the progress of



the tenants. If they see abuse or neglect they are required to call Protective Services. The service-enriched home has extensive monitoring. Monitoring may include:

- DHA – completes background checks on property, homes, applicants, service providers, and tenants, sets rent (FMR), reviews reports from homeowners monthly, inspects homes.
- MOA - as part of the application a Memorandum of Agreement or plan between the home owner and the service provider are reviewed to ensure services will be provided to specific residents.
- Service Providers – in and out of the house to help tenants with independent living skills, are observant of environment. (Ex: persons living in home, unsafe living conditions)
- State Department of Aging and Disability – may audit home. (Ex: persons living in home, unsafe living conditions)
- Guardians of tenants - monitor implementation of Personal Development Plans, visit home of tenant.
- Tenants – pay specific amounts of rent approved by Guardian or other designated individual.

In the DFW area 100,000 people with a cognitive disability have at least one challenge to living independently. There is housing across the state for three percent of this population. The State of Texas Department of Aging and Disability Services wants to move residents out of State Supported Living Centers (SSLCs) and into community-based, service enriched-housing. There is clearly a need for housing for people with IDD. Any systematic incentive for misuse is counterbalanced by the obligation of the overseers to prevent or combat fraud and abuse.

Issue 2: Persons requesting a reasonable accommodation in policies in order to effectively participate in the housing choice voucher program are not harmed by restricting the exception to renting to relatives to the tenant-based program.

The significant difference between HCV and PBV for adults with IDD and their families is the length of the contract between the homeowner and a PHA.

- In the HCV program, the effective date of the owner's lease for a particular unit and the effective date of the HAP contract for that unit are the same. There is no limit on the length of that HAP contract, and if the lease terminates, so does the HAP contract.
- In PBV, however, the PHA may initially *enter into a PBV HAP contract for all units with an owner for 20 years, subject to the availability of funding.* The HAP contract may further be extended for an additional 20 years. An owner's lease with different families and the PBV HAP contract do not run concurrently.

Adults with IDD need permanent, non-transient housing for their lifetimes. Frequent moves, and not knowing where they will live may create anxiety (<http://coc.unm.edu/common/training/Anxiety%20Intellectual%20Disability.pdf>). The PBV program has a long term HAP that addresses the needs of the residents.

In addition, accommodations should be available for adults with IDD regardless of the program or the



property owner. With the lack of housing for adults with IDD in DFW as stated above, restrictions that prevent these adults from accessing the few housing options that are available does great harm. The likelihood of increased homelessness, murder/suicide, unwarranted imprisonment, and abuse/neglect, and decrease in self-sufficiency because of the lack of housing is in conflict with the stated 2017 DHA plan and the HUD Mission.

Three Federal Acts direct all housing programs to allow accommodations.

- It is a violation of the **Fair Housing Act** for any person to refuse to make a reasonable accommodation in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas. ... The Act also makes it unlawful for any person to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because those persons may require reasonable accommodations
https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights
- **Section 504 of the Rehabilitation Act of 1973** provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving **Federal financial assistance**.
https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504
- **Americans with Disabilities Act, the Olmstead Decision.** On June 22, 1999, the U. S. Supreme Court ruled in the case *Olmstead v. L.C. and E.W.* that the "integration mandate" of the Americans with Disabilities Act requires public agencies to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities".
<http://www.accessiblesociety.org/topics/ada/olmsteadoverview.htm>

There is no strategy for the State of Texas to fund housing for adults with IDD. As economic development in North Texas expands the population of people with IDD will increase, putting more pressure on local organizations to collaborate to create more community-based, service-enriched housing. Restrictions on access to housing, making it difficult to live independently, with services, are resulting in increased homelessness, murder/suicide, and/or unwarranted imprisonment, and more abuse and neglect.

CPSH requests that to DHA to move forward with the current RFP as follows:

- Make awards from the current pool of supportive housing applicants;
- Make a reasonable accommodation request to HUD for an exemption to the regulation that PBV's cannot rent to relatives;
- Clarify DHA's position as to whether a home set up by a family member as an LLC or a Special



Needs trust is considered “family-owned.”

Considerations for future RFPs:

- Offer conditional approval of applicants who do not currently own homes so that applicants can purchase homes. Potential applicants would like to participate if they can purchase homes after conditional approval. Many potential applicants are not in business to rent homes and don't own houses that can readily be used for this purpose.
- Publish an **OPEN-ENDED REQUEST FOR PROPOSALS** for the single-family-home PBV program for at least 18 month and make conditional awards on a rolling basis within 2 months of receipt of an application. This will help those interested participate in the process faster.
- CPSH would like to participate in establishing the schedule of future RFPs so that families of persons with IDD can participate in approaching multi-family property owners to encourage participation.

CPSH would like DHA to move forward with the current RFP and collaborate with CPSH to ensure Homes with PBVs are available to all adults with IDD who want to live in them.

Sincerely,

Robin LeoGrande, Co-Founder and President
COMMUNITY FOR PERMANENT SUPPORTED HOUSING
admin@txcpsp.org
214-632-8115

Attachments

- A: Timeline
- B: DHA letter to HUD, FW Office
- C: HUD, FW Office email to CPSH
- D: About CPSH



Attachment A - Timeline

7/31/16 Dallas Housing Authority publically announced the RFP SECTION 8 PROJECT-BASED VOUCHER (PBV) ASSISTANCE FOR NEIGHBORHOOD HOUSING PILOT PROGRAM OF PERMANENT SUPPORTIVE HOUSING FOR PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

9/11/16 DHA published Addendum 1 to the RFP that included answers to questions received by those reading the RFP. In that document the following was stated:

Q1: Can a parent own the home and have their child living there?

A: *The parent can only be the owner of a home in which their child resides if a reasonable accommodation request has been submitted and approved. The RFP should not be submitted assuming that the owner's child will be approved under a reasonable accommodation.*

Q2: What's an example of reasonable accommodation, and at what point does it need to be submitted?

A: *A reasonable accommodation is a modification or change DHA can make to its offices, methods or procedures to assist an otherwise eligible applicant or participant with a disability to take full advantage of and use DHA's programs. Some examples where an individual may have a reasonable accommodation is if their parent owns the home, if they need a live-in aide, or because they need their own bedroom. We have a 504 ADA coordinator who will contact the medical practitioner to verify the accommodation is needed. (See page 9 of the DHA Voucher Program Administrative Plan.)*

Reasonable accommodation forms will be submitted once verification of eligibility is complete, prior to move-in.

9/19/16 Applications Due to DHA

11/9/16 Announcement of the award was supposed to be made. – reason for delay was inspectors not available. New announcement date before Thanksgiving, 2016. No announcement made during 2016

1/10/17 Call with Troy Broussard, DHA CEO. A follow up email from Troy says:

"...Due to existing circumstances at DHA including a change in leadership and change to the agencies operational software and other competing priorities, DHA has not concluded its process or awarded contracts related to the subject RFP. "

"We believe that there may exist in the program strategy a specific violation of HUD regulatory requirements that both the DHA and program participants will need to avoid. For example; existing HUD regulations governing the Housing Choice Voucher



Attachment A - Timeline

program prohibit participating landlords from renting to relatives. DHA understands that some prospective applicants may have intention of renting their awarded project based housing unit to a relative.”

“...DHA’s new leadership, aware of HUD’s longstanding position prohibiting renting assisted units to close relatives, is seeking confirmation from its funding agency that its anticipated remedy to this concern is acceptable to HUD. “

3/16/17 CPSH received an email from HUD

“We have learned that the Project-Based Voucher Program Final Rule specifically prohibits a PHA from approving an owner to rent to an immediate family member as means of providing a reasonable accommodation. However, HUD informed DHA that if they determine that there is just cause to approve such an accommodation, DHA may submit a request to the U.S. Department of Housing and Urban Development for a regulatory waiver on a case-by-case basis. The process would begin with request to the Dallas Housing Authority for a reasonable accommodation. If upon review the Dallas Housing Authority determines that particular request is reasonable, it may submit a request for a regulatory waiver to our office, which HUD would review and submit to the Assistant Secretary for consideration. There are no guarantees that a regulatory waiver request will be approved.”

3/16/17 CPSH sent DHA an email asking if DHA would choose to send Requests for Accommodations to HUD for approval and have yet to receive an answer.

4/10/17 DHA sent an email to CPSH stating they would meet with CPSH the week of 4/16/17. A meeting has been scheduled for **4/18/17**



Attachment B - DHA Letter to HUD



Dallas Housing Authority

3939 N. Hampton Rd., Dallas, TX 75212 | Phone: 214.951.8900 | Fax: 214.951.8800 | www.dhadal.com

January 20, 2017

Regenia Hawkins
Director PIH
U.S. Department of Housing and Urban Development
Fort Worth Regional Office, Region VI
801 Cherry Street, Unit #45, Suite 2500
Fort Worth, Texas 76102

Re: Project Based Voucher Program


Dear Ms. Hawkins,

The Dallas Housing Authority (DHA) seeks your guidance regarding a HUD regulatory matter involving the use of Project Based Vouchers for persons who are Intellectually and developmentally disadvantaged.

In late 2016, DHA issued a Request for Proposals seeking owners of single family rental property who may be willing to enter into a project-based voucher contract dedicating their rental units for occupancy by persons who are intellectually and developmentally disadvantaged and qualified to participate in the Housing Choice Voucher program.

During the course of this procurement, DHA discovered that some property owners who submitted a proposal in response to this RFP may intend to rent their prospective project-based voucher unit to a close relative. DHA acknowledges the HUD prohibition of renting to relatives in the tenant-based Housing Choice Voucher program and the potential to allow a tenant to occupy a unit owned by a close relative provided that there exists an appropriate and approved request for reasonable accommodation for a tenant who has a disability. During DHA's evaluation of this matter we have considered that the circumstances in the project-based voucher program are different and that HUD has already issued guidance to public housing agencies regarding this matter. Federal Register Vol. 70, No. 197 published Thursday, October 13, 2005 page 59907, is at least one reference of a HUD response to this immediate circumstance. The following is an excerpt from the Project Based Voucher Final Rule 10/13/2005, which states;

"Comment: One commenter stated that the prohibition on renting to the owner's relatives in proposed § 983.209(e) should be subject to an exception when necessary to make a reasonable accommodation, as in current 24 CFR 982.306(d).

HUD Response: The comment was not adopted. HUD intentionally differentiates in this case between the tenant-based voucher and project-based voucher programs. To allow an owner



Attachment B - DHA Letter to HUD

of a project-based voucher development to rent to close family relatives (whether disabled or not) creates a systematic incentive to owners to misuse the program. Persons requesting a reasonable accommodation in policies in order to effectively participate in the housing choice voucher program are not harmed by restricting the exception to renting to relatives to the tenant-based program."

In an effort to give fair and appropriate consideration to the project-based voucher proposals received and to community advocates for persons with intellectual and developmental disabilities and in consideration of the age of the above mentioned HUD response (12-years old) DHA seeks your guidance in this matter. **Can property owners with a project-based voucher contract rent to relatives if their close relative is an applicant with a disability seeking approval to live in this project-based voucher assisted dwelling as a reasonable accommodation?**

Please contact me or David Zappasodi at 214-951-8319 if you have any questions or need additional information. We look forward to your guidance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Brunsard", is written over a faint, circular stamp or watermark.

Troy Brunsard
President and Chief Executive Officer

Cc: D. Zappasodi
G. Mays
B. Etie



Attachment C – HUD Email to CPSH

From: "Sauve, Garrett C" <Garrett.C.Sauve@hud.gov>
Subject: RE: Request for Call/Meeting: Status of DHA PBV Program for Persons with IDD
Date: March 16, 2017 at 11:59:11 AM CDT
To: "CPSH (Creating Home for Adults w/ IDD)" <admin@txcph.org>, TX_Webmanager <txwebmanager@hud.gov>, "Hawkins, Regenia Y" <Regenia.Y.Hawkins@hud.gov>
Resent-From: <admin@txcph.org>

Hello Ms. LeoGrande,

To follow-up with you on this email message and our conversation on March 7th, President and CEO Troy Broussard of the Dallas Housing Authority submitted a request to the Office of Public Housing in Fort Worth in January for a regulatory interpretation regarding whether a public housing agency (PHA) has the authority to approve an owner to rent to an immediate family member under the Project-Based Voucher Program. As I informed you over the phone, we reviewed the request in this office based on regulatory requirements and then responded to Mr. Broussard; the matter was never referred our headquarters in Washington.

The regulations for tenant-based assistance under the Housing Choice Voucher Program provide that a "PHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities." The Project-Based Voucher Program is distinct in many ways from tenant-based assistance, and it has its own set of regulations that also provide a similar prohibition regarding an owner renting to an immediate family member. The difference is that the Project-Based Voucher regulations do not specifically authorize a PHA to approve a unit if the owner is a relative of the family as a means of providing a reasonable accommodation. An explanation of this is provided in the Project-Based Voucher Program Final Rule, published in the Federal Register on October 13, 2005 (see top of middle column on page 59907 of the attachment).

In our response to Mr. Broussard, we provided our interpretation that the Project-Based Voucher Program Final Rule specifically prohibits a PHA from approving an owner to rent to an immediate family member as means of providing a reasonable accommodation. However, we informed him that if he determines that there is just cause to approve such an accommodation, he may submit a request to the U.S. Department of Housing and Urban Development for a regulatory waiver. Just as a note, reasonable accommodations are generally considered on a case-by-case basis. The process would begin with request to the Dallas Housing Authority for a reasonable accommodation. If upon review the Dallas Housing Authority determines that particular request is reasonable, it may submit a request for a regulatory waiver to our office, which we would review and submit to the Assistant Secretary for consideration. There are no guarantees that a regulatory waiver request will be approved.

When I spoke to you on the phone last week, I may have misunderstood that the Dallas Housing Authority had already awarded a contract to your organization to project-based vouchers in six units, four of which would be occupied by the owner's children. As promised, I discussed the matter with Mr. Broussard by email. I also had a conversation this morning with David Zappasodi, the Senior Vice-President and Chief Operating Officer at the Dallas Housing Authority. Based on the information I received from them, the Dallas Housing Authority issued a request for proposals (RFP) some time back to project-base vouchers in single-family homes and that no contracts have yet been



Attachment C – HUD Email to CPSH

awarded. You had submitted a proposal under this RFP. I also understand that the Dallas Housing Authority is now considering withdrawing the RFP and issuing a new RFP to project-based vouchers in multifamily units apartments. The Dallas Housing Authority has full authority to take such actions.

Mr. Zappasodi indicated that he and Mr. Broussard would likely be meeting with you to discuss the issue. I would encourage you discuss any questions or concerns you have with them. I am happy to discuss the issue with you. However, because a contract has not yet been awarded, I do not believe that we would have any involvement in the matter at this point. I will be in the office tomorrow if you wish to talk.

Garrett Sauvé
Portfolio Management Specialist
U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Tel: (817) 978-5592
Fax: (817) 978-6017
Email: Garrett.C.Sauve@hud.gov



Attachment D - About CPSH

COMMUNITY FOR PERMANENT SUPPORTED HOUSING, a non-profit charity in North Texas. Our mission is to work with families, government, service providers and other community partners to create more safe, affordable housing for adults with intellectual/developmental disabilities in Collin, Dallas, Denton, Ellis, Kaufman, Rockwall, and Tarrant Counties. Through our past collaborations with Dallas Housing Authority we have assisted in housing 54 adults.

We are in a time when adults with intellectual/developmental disabilities are outliving their parents, making transition to independently living before the death of parents is a social imperative. We are already seeing the tragedies of parents abandoning their adult children or murder/suicide when parents are no longer able to care for their children. In the DFW area 100,000 people with a cognitive disability have at least one challenge to living independently. There is housing across the state for three percent of this population.

When safe, affordable, service-enriched housing is available for individuals living with IDD in our community there is a decrease in the likelihood of homelessness, murder/suicide and/or unwarranted imprisonment and an increase in self-sufficiency. Also, proactive access to housing decreases municipal emergency budgets. A 2010 Tarrant County study shows proactive access to housing is 13 times less expensive than some emergency services such as state mental hospitals.

In late 2015, Texas Department of Housing and Community Affairs (TDHCA) announced a Housing and Services Partnership Academy. The academy is composed of 9 teams across Texas that are identifying solutions for **Service-Enriched Housing for Persons with Disabilities and Aging Texans**. The Dallas County Housing Alliance is one of those teams. Brooke Etie represents DHA and Robin LeoGrande represents CPSH on the Dallas Team. In 2017 the Housing and Services Partnership Academy continues. The collaboration between DHA and CPSH influences the efforts in Dallas Co. and at the State level.

The organization's founder, Robin LeoGrande, was recently recognized with the Vision Award by the Texas Department of the Aging and Disability Services for exemplary work creating housing options for adults living with IDD.

CPSH is an advocacy organization.