



**Berkeley Housing Authority**

1901 Fairview St., Berkeley, CA 94703  
Telephone: (510) 981 5470 Fax: (510) 981 5480

*Office of the Executive Director*

Item 8C  
ACTION CALENDAR  
June 28, 2011

To: Honorable Chairperson and  
Members of the Berkeley Housing Authority

From: Tia M. Ingram, Executive Director

Subject: Revision to, and implementation of a new Payment Standard schedule for the Section 8 Tenant Based and Project Based Voucher Programs and the Moderate Rehabilitation, Single Room Occupancy Programs:

- (1) Resolution adopting a revised schedule, effective July 15, 2011 for new contracts, and effective January 1, 2012 for renewal of existing contracts; and
- (2) Resolution authorizing submission of a Waiver request to the U.S. Department of Housing and Urban Development (HUD) allowing for application of the Payment Standard for existing contracts beginning January 1, 2012.

RECOMMENDATION

1. Approve a resolution adopting a revised schedule, effective July 15, 2011 for new contracts, and effective January 1, 2012 for renewal of existing contracts; and
2. Approve a resolution authorizing submission of a Waiver request to the U.S. Department of Housing and Urban Development (HUD) allowing for application of the Payment Standard for existing contracts beginning January 1, 2012.

BACKGROUND

A. Reasonable Rent. In accordance with 24 CFR 982.507, the Berkeley Housing Authority (BHA) is required to make an initial and ongoing assessment of the reasonableness of contract rent for all assisted units, and property owners must certify that the rent does not exceed that charged for similar, unassisted units. In order to make the assessment of a reasonable rent for an assisted unit, BHA contracts with a data firm that runs figures on unassisted units that are comparable to each Section 8 unit for which a Section 8 Participant and a Property Owner wish to enter into lease. In fact, Rent Reasonableness is one of the 14 SEMAP indicators.

A recent review of data compiled by the Berkeley Rent Stabilization Program confirms that rents for new tenancies (set by the market, versus Rent Board formula) have declined in all areas of the City, except the neighborhoods immediately adjacent to the University. We compared the average new rent in each census tract, by bedroom size, to the current Payment Standard schedule used for S8 assisted tenancies, and determined that

our current Payment Standard is generally higher than the average rent amount for newly leased units in the jurisdiction.

B. Setting the Payment Standard. BHA is required to maintain a Payment Standard (PS) schedule for the Section 8 Housing Choice Voucher Program. Payment Standards are utilized to calculate the maximum amount a housing authority may pay for a Section 8 contracted unit, the amount of which is inclusive of: (a) the subsidy BHA pays on behalf of the Section 8 program participant to the owner (or Housing Assistance Payment, "HAP"), (b) the amount the Section 8 program participating family pays to the owner (Tenant Rent Portion) and, (c) the amount of utility allowance that the Section 8 program participating family will receive for any utilities paid by the family.

In accordance with 24 CFR 982.503, the Payment Standard schedule must be set at a level that is sufficient to allow a family a reasonable opportunity to rent a unit in the jurisdiction. The PHA has the authority to set the PS anywhere between 90% and 110% of the Fair Market Rents (FMRs) as established by HUD annually. If the PHA determines that the PS at 110% is insufficient given current market rents, the PHA may appeal to HUD for an exception PS, up to 120% of FMR. Conversely, if the PHA determines that the PS is at a level that is higher than required to lease available units, the rates should be lowered. This is particularly important in the current environment when PHA's (including BHA) are appealing to HUD for additional HAP funding, and must demonstrate that every reasonable action has been taken to control HAP expenditure.

C. Changes to Payment Standard. The Payment Standard is subject to change at any time, but must be reviewed at least annually. In accordance with 24 CFR 982.505, whenever there is an increase in the Payment Standard, it is applied immediately to new contracts, and to existing contracts at the next annual (not interim) recertification. Whenever there is a decrease in the Payment Standard, it is applied at the second annual recertification.

## STATUS

As discussed above, we are proposing a revision to the Payment Standard to more accurately reflect the current rent levels for new vacancies in the City of Berkeley, and to start bringing owners' expectations in line with the market. We are proposing a gradual decrease in the Payment Standard from 110% of FMR to 105% of FMR for all neighborhoods, except Areas 1 and 3, where we propose retaining the maximum we can authorize, 110% of Fair Market Rent (Attachment 3). It is important to note, that even with a payment standard at 105%, BHA retains the right (in accordance with 24 CFR 982.505) to apply a 110% payment standard on a case-by-case basis as a reasonable accommodation for a household with a disabled member.

Maintaining the Payment Standard at 105% for all other areas of the City allows us to recognize "top of the market" rents by bedroom size, while encouraging owners with baseline units to invest in modernization or services. We have begun putting owners on notice about the potential decrease in payment standards, and will continue our education program each month, including providing information owners can use to help determine the likely contract rent that will be approved for an average or above average-unit in the various areas of the City.

In addition to adjusting the Payment Standard to better reflect the market, we need to accelerate the application of the new, lower Payment Standard to existing contracts, to ensure that we have sufficient annual budget authority to assist the maximum 1,841 authorized vouchers in our Section 8 Program. Thus, we propose submitting a Waiver Request to HUD to apply the standard to all existing households effective January 1, 2012. Owners will be required to lower the rent (if they want to continue receiving a rental subsidy) or submit evidence of unassisted comps to support retention of any higher existing rent.

During the intervening six month period before instituting the lower Payment Standard, we will provide advance notice to families and landlords advising:

1. The new Payment Standard schedule by area;
2. In general, how the change will impact the rent portions paid by BHA and the family;
3. The options for a voluntary decrease in contract rent and the consequences of failure to do so; and
4. The family's ability to transfer to a different unit, with Section 8 rental assistance.

This will necessitate increased additional interaction of staff with our landlords and assisted households, but is unavoidable if BHA is to remain compliant with HUD regulations, and equally important, to avoid a situation where valid contracts are terminated due to lack of funding.

#### CONTACT PERSON

Tia Ingram, Executive Director, 981-5471  
Jesy Yturalde, Finance Manager, 981-5488

#### Attachments:

1. Resolution
2. Payment Standard Schedule
3. City-wide Area Map Indicating New Payment Standard (as a % of FMR)

RESOLUTION NO. 10-\_\_\_\_\_

AUTHORIZING THE ADOPTION OF A NEW PAYMENT STANDARD SCHEDULE FOR THE SECTION 8 TENANT BASED AND PROJECT BASED VOUCHER PROGRAMS, AND THE MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY PROGRAM, EFFECTIVE JULY 15, 2011 FOR NEW CONTRACTS AND JANUARY 1, 2012 FOR RENEWAL OF EXISTING CONTRACTS

WHEREAS, the Housing Authority is required to establish a Payment Standard schedule for all bedroom sizes; and

WHEREAS, the U.S. Department of Housing and Urban Development publishes new Fair Market Rent amounts every October; and

WHEREAS, the Housing Authority is allowed to establish the Payment Standard amounts between 90 and 110% of the Fair Market Rent (FMR); and

WHEREAS, on October 4, 2010 HUD issued the Final Fair Market Rents for the Federal fiscal year 2011; and

WHEREAS, the current Payment Standards are within 90-110% range of FMRs; and

WHEREAS, BHA received relevant data from the Berkeley Rent Stabilization Board regarding average rents in various geographic areas within the City; and

WHEREAS, BHA retains the right to approve a payment standard up to 110% on a case-by-case basis as needed for a household that includes a person with disabilities; and

WHEREAS, staff needs information on applicable Payment Standards to continue processing of annual and interim recertifications.

NOW THEREFORE, BE IT RESOLVED, that the Housing Authority Board authorizes adoption of a new Payment Standard Schedule for the Berkeley Housing Authority's Section 8 Tenant Based and Project Based Voucher Programs and the Moderate Rehabilitation, Single Room Occupancy Program, attached hereto and identified as Exhibit A, effective July 15, 2011 for new contracts and January 1, 2012 for renewal of existing contracts.

The foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on June 28, 2011 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Attest: \_\_\_\_\_  
Tia M. Ingram, Secretary

## Exhibit A

**Proposed Payment Standards  
Section 8 Housing Choice Voucher and  
Moderate Rehabilitation, Single Room Occupancy Program**

Effective July 15, 2011 for New Contracts  
and  
January 1, 2012 for Renewal of Existing Contracts

<b>Effective Date</b>	<b>SRO</b>	<b>0-Studio</b>	<b>1-Bed-room</b>	<b>2-Bed-rooms</b>	<b>3-Bed-rooms</b>	<b>4-Bed-rooms</b>
<b>7/15/11 All Areas Except 1 &amp; 3</b>	767	1,023	1,235	1,463	1,983	2,456
<b>7/15/11 Areas 1 &amp; 3 Only</b>	Same as above	1,071	1,294	1,532	2,078	2,573
<b>12/01/10</b>	803	1,071	1,294	1,532	2,078	2,573
<b>12/01/09</b>	794	1,059	1,278	1,515	2,054	2,543
<b>08/02/09</b>	747	996	1,202	1,554	2,107	2,608
<b>12/01/08</b>	746	995	1,202	1,425	1,932	2,393
<b>12/17/07</b>	715	953	1,151	1,363	1,848	2,288
<b>05/01/07</b>	721	961	1,160	1,472	2,034	2,474
<b>03/01/07</b>	721	961	1,160	1,375	1,864	2,080