

Berkeley Housing Authority Repositioning Project

Frequently Asked Questions (April 7, 2011)

1. Why must BHA transfer ownership of its Public Housing?

BHA must transfer ownership of its public housing because HUD gave BHA a limited time to either bring the public housing up to current standards or transfer ownership to an affordable housing provider(s). BHA's scattered-site units (61 Federal and 14 State) are old and in need of extensive repairs, which will require millions of dollars in direct hard costs alone. The funding that the BHA receives from HUD as a public housing authority is inadequate to cover the cost of these repairs along with ongoing public housing operations.

In order to meet HUD requirements and to maintain these units as affordable rentals, BHA has decided to transfer the housing to an affordable housing provider(s) to own, rehabilitate, and manage. The subsidy that a new owner will be eligible to receive through the Section 8 Program will be much higher than what BHA is able to get as a public housing authority. BHA will continue to provide rental subsidies through the Section 8 program for eligible families.

BHA will use any proceeds from a sale of the housing to fund services and continued operations of the Section 8 program.

2. Will the BHA units continue to provide affordable housing to low income households?

Yes, that the units remain affordable to low income households will be condition of the transfer and is a HUD requirement.

Although BHA will not maintain ownership of the property, it will remain closely involved in the oversight of the renovated housing units. This will occur through provision of Section 8 rental assistance, and through long-term ground lease, deed restrictions, or other recorded restrictions created to ensure permanent affordability, effective management, and maintenance of all properties. The BHA's goals and objectives are that this housing continues to be available to eligible households at or below 50% of area median income.

3. How many Public Housing units does BHA own?

BHA owns 61 units of Federal and 14 units of State (financed) scattered-site housing. Developed with Federal and State funds, the BHA expects to transfer all its units to an affordable housing provider, subject to recorded restrictions. In some cases, BHA owns the land and buildings. In some instances, Berkeley Unified School District (BUSD) owns the underlying land parcels. Subject to BHA approval, the new owner(s) will need to negotiate new lease terms with BUSD.

4. To whom will BHA's property be transferred?

The new housing provider is unknown at this time. BHA's disposition application submitted to HUD on December 29, 2009, requested approval for BHA to transfer its 61 federally funded public housing units to a new, to-be-selected housing provider.

BHA's application was approved on December 22, 2010. BHA will now begin the process to select the affordable housing provider(s). The selected provider will be responsible for financing, renovating and operating the apartments, long term, as affordable rental housing serving low-income families in the City of Berkeley.

A similar, required process will follow, concurrently transferring the state-funded public housing units to the same affordable housing provider.

5. What repairs and renovations will be made?

BHA will require that properties are renovated to modern standards, including new flooring and carpeting, windows, fresh paint, new cabinets, counter tops, appliances, and heating units. Exterior improvements will include drainage repairs, new landscaping as well as new roofing, siding and stuccowork, painting, and repaving.

The new owner(s) will develop the exact scope of work, based on the capital improvement plan that BHA generated for these units. Renovation work is expected to begin in 2012-13.

6. Will currently housed families continue to receive housing subsidy?

Yes, with a few exceptions. Families who meet Section 8 eligibility requirements will continue to receive a rental subsidy. Section 8 eligible families that remain in the housing units will receive Section 8 rental assistance. Eligible families that leave the housing will receive a Housing Choice Voucher.

Families that are no longer low income (whose current income exceeds the low-income housing program limits) are considered “over-income” and are ineligible to receive Section 8 rental assistance. These families are, however, eligible to re-occupy their current unit, after renovation, at the fair market rent if they wish, or relocated elsewhere.

7. What help will over-income families receive?

In cases where a family is no longer “low-income” and does not qualify for Section 8 rental assistance, the family can elect to re-occupy their current unit at the fair market rent after renovation or the BHA will help them locate suitable housing in the City of Berkeley or nearby, and provide relocation rental assistance for up to 42 months to cover the difference between current and future rent.

The BHA has a legal responsibility to relocate over-income families that wish to move. The BHA and its relocation consultant, Overland, Pacific & Cutler, Inc. (OPC) will work closely with over-income families to determine benefits and locate appropriate housing in the City of Berkeley, or nearby, that match their family size and needs.

8. What does it mean to be “over-housed?”

Under the HUD occupancy standards for public and assisted housing, families are supposed to be housed in units that have a minimum number of bedrooms for their family size. The BHA occupancy standard is one bedroom for the head of household and spouse, and one bedroom for every additional two people in the family. For example, a family with a single parent and two children, or a family with two parents and two children is eligible for a two-bedroom subsidy or unit.

Some BHA public housing residents have become over-housed, due to changes in family size, resulting in one or two people living in a three or four-bedroom unit. Such a family is considered “over-housed” under HUD regulations and the BHA occupancy standard. They no longer qualify to stay in the units they are in, but because the housing authority has no smaller units to offer them, they have been allowed to remain.

Under the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance, over-housed families may return to their renovated units. However, due to HUD occupancy rules, Section 8 eligible over-housed families will have to pay the difference between the subsidy for a smaller household size and the total unit rent.

9. What help will "over-housed" families receive?

Families over-housed in the current program but are still Section 8 eligible will receive a Housing Choice Voucher (HCV) that allows them to rent any unit in the country that accepts a voucher including units within the City of Berkeley.

The BHA and its relocation consultant, Overland, Pacific & Cutler, Inc. (OPC) will work closely with Section 8 eligible over-housed families to determine benefits and locate appropriate housing in the City of Berkeley or nearby, that match their family size and needs.

10. Does the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance apply to Public Housing?

Yes, the eviction controls under Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance do apply to public housing, and requires that the BHA allow displaced tenants the option to return to their previously occupied units upon completion of rehabilitation.

However, as noted above Section 8 eligible over-housed families will have to pay the difference between the subsidy for a smaller household size and the total unit rent, not to exceed 40% of their monthly adjusted income for the first year. Section 8-eligible families that have an appropriate household size for the unit they wish to return to will continue to pay 30% of their adjusted gross income in rent.

11. What is BHA's Relocation Plan?

BHA's Relocation Plan provides a detailed roadmap of how tenant relocation will be carried out, including: (1) the estimated number of families that will be permanently or temporarily moved; (2) the type of counseling and advisory services, and other housing help, that the BHA plans to provide to residents; (3) the inventory of comparable housing located in the City of Berkeley or nearby which will be offered to residents who want to move to other locations.

12. Who will pay for the family's relocation expenses?

BHA and the new housing provider will finance family relocation expenses that include moving benefits and rental assistance. Moving benefits typically include moving, packing, and utility transfers. For families returning to their renovated unit, moving benefits are provided for both moves.

Rental assistance benefits are typically provided when a family opts not to return to their renovated unit. In these cases, they receive one-way moving benefits and rental assistance. BHA and its relocation consultant, Overland, Pacific & Cutler, Inc. (OPC) will develop a customized relocation plan based on individual family situations, the construction schedule and staging.

13. Will the apartments be available for homeownership purchase?

No, BHA will not offer the apartments for sale to individuals, for several reasons. First, the units are not legally subdivided in order to allow tenants to take individual ownership. Secondly, the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance requires that current tenants temporarily displaced during unit rehabilitation have the right to return to their previously occupied rental units, pre-empting any option to sell. Thirdly, HUD prohibits Project-based rental assistance (PBV) to be used for homeownership projects and PBV is the only resource that the BHA has to ensure the required renovations of the units. BHA does not operate a HCV homeownership program.

Finally, BHA has a commitment to preserve the units as affordable rental housing in Berkeley, serving tenants with income up to 50% of Area Median Income. There is a scarcity of three- and four- bedroom rental units available in Berkeley

14. Will residents receive compensation under the Ellis Act?

No. The Ellis Act is a state law that allows a locality to require that a specific process be followed and compensation paid to tenants when an owner wishes to withdraw units subject to rent control from the rental housing market. Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance contains provisions that implement the Ellis Act. However, since the BHA plan will keep the units as rental housing, Berkeley's Ellis Act provisions will not apply.

15. Who should be contacted for more information?

For questions regarding the Repositioning Project, contact Celinda Aguilar-Vasquez, Administrative Assistant at (510) 981-5483 or caguilar-vasquez@ci.berkeley.ca.us

Overland, Pacific & Cutler, Inc. is consulting with BHA to assist families in the relocation process. For questions regarding the BHA relocation, contact OPC representative Chad Wakefield at (510) 638-3081 or cwakefield@opcservices.com.

