



Berkeley Housing Authority

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Office of the Executive Director

November 2, 2015

Mansour Id-Deen, President
 Berkeley NAACP
 PO Box 613
 Berkeley, CA 94701

Re: Affordable Housing; Response to your Oct. 19, 2015 letter

Dear Mr. Id-Deen:

Thank you for sharing the position of the Berkeley Branch of the NAACP relative to the affordable housing crisis in Berkeley; the need for advocacy on behalf of families with Section 8 Vouchers; and the impact the affordable housing crisis has on African American households. I share many of your concerns, and have been strongly advocating internally, as well as with HUD officials, City officials and Elected Officials.

Privatization of Public Housing

You note the action of some public housing authorities to transfer ownership of public housing units. The circumstances leading to a decision to privatize public housing units may vary from project to project, but there are some recurring themes. I can speak specifically for Berkeley in terms of major considerations in making such a decision:

- a. Lack of adequate funding from HUD to maintain the units at a level appropriate for the families housed therein.

Quite simply, our families deserved better quality in their housing. BHA received approximately \$130,000 annually for capital projects; when the units were sold in 2014, the estimated cost of modernizing the units was over \$6 million - 46 years of annual Capital funding. As a result of the transfer, the units received comprehensive interior and exterior modernization at an average cost of \$209,000 per unit.

- b. Maximization of Housing Resource. A major limitation for families in the public housing program, is the ability to move. Because all 75 of BHA's public housing units were 3- and 4-bedrooms, there was no ability to relocate families to appropriate (smaller) units as their family composition changed, and keep the rent affordable. We had situations where, for several years, a Mom and one child were occupying a four bedroom unit, while larger families (5 or more members) were unable to find appropriate sized rental housing in Berkeley. Public Housing assistance is not "transferable," thus Mom was not able to move to an appropriately sized unit, without the rental assistance provided via a Section 8 Voucher.

The repositioning project: (1) allowed existing households to bypass the Section 8 Tenant Based Voucher wait list; receive a Section 8 Voucher; and move to an appropriately sized unit of their choosing, and (2) created a supply of affordable 3- and 4- bedroom units for families with 4-5 or more members.

I want to preface the rest of the discussion about the public housing units by addressing one misperception about the relocation of sitting tenants: *"83% of the families were forced to find somewhere else to live."* In fact, every existing *income-eligible* resident was advised of the ability to receive Section 8 assistance, and to use the assistance in any unit, in any jurisdiction with a S8 program (choice). It is also true that every over-housed resident (family that required 1 or 2 bedrooms) was encouraged to use the Section 8 voucher to move (off site) to a unit of appropriate size for the family. Of the over-housed families 5 rejected the offer to move off-site; their unit was modernized; and they continue to occupy a unit with more bedrooms than needed to adequately house the family.

- c. Displacement of African American households (in the 75 unit portfolio). In 2013 when the disposition project was approved, 81% of the households were African American.

In 2015 when initial leasing was completed, 62% of the households were African American, 10% were White, and the remaining 28% were other. In addition, 6 of the African American families that were over-housed, and moved-off site by choice, relocated in Berkeley.

- d. In speaking about the African American families that currently reside in one of the former Public Housing units you note *"the one year anniversary of those current tenants lease agreements will culminate with the loss of their ability to move with a "housing choice" Voucher.* Please note:

- Residents in the units with S8 project based assistance remain eligible to request a Tenant Based voucher and move off site any time after the first year, provided they are in good standing and income eligible for the S8 voucher program.
- Residents in the units with S8 tenant based assistance (because they are over-housed) likewise remain eligible to move off-site, with S8 Tenant based assistance provided they are in good standing and income eligible for the S8 voucher program.

".....Essentially this means the voucher stays attached to the unit and the tenant must leave and face market rate rents when they decide to or are forced to move out of their current rental unit." Please note:

- BHA awarded 75 Project Based Vouchers (PBVs) to the project. The 74 vouchers (when placed in service) will be tied to the property for 15 years. When there is turn-over, the PBV remains attached to the unit where it can serve an extremely-low income family in need of a 3- or 4- bedroom unit; AND

As noted above, as families vacate and move-off site, they receive a Tenant Based Voucher. This voucher allows the family to rent a unit, while paying 30% of adjusted monthly income for rent.

Racial representation in S8 Voucher Program

The Mason Tillman report you reference, and many other recent studies, attest to the out-migration of African American households from the inner-city. Of the current households assisted in BHA's rental housing programs (Section 8 Tenant Based, Section 8 Project Based, and Single Room Occupancy, Moderate Rehabilitation)

- 69% are African American
- 22% are White
- 2% are Asian/Pacific Islander, Native American; and
- 7% self-declare Hispanic/Latino.

That said, I agree that there has been a significant change in the racial and economic diversity that was once the hallmark of Berkeley, and everyone should work proactively and aggressively to address this problem.

Lack of Affordable Housing

You suggest BHA has been remiss in not "*replenishing the housing stock available to low income African Americans and other low-income Berkeley residents.*" It is important to note that owner participation in the Section 8 Housing Choice Voucher Program is 100% voluntary. An owner cannot be compelled to participate, and can choose to lease one, all, or none of the units in a portfolio. We are keenly aware of the lack of affordable housing units in Berkeley that are available to extremely-low income households with Section 8 Vouchers. BHA maintains an "Available unit listing" report – a service designed to connect families seeking a rental unit with owners with units available for rent. We have used this as one measure of gauging the supply of affordable housing units. Note: in September 2014 this list averaged 10-15 units per week; this year the list has averaged 0-1 units.

We have shared this concern with the BHA Board on several occasions (see attached excerpts from the Executive Directors' Status Reports Attachment 4). In addition, we continue to:

1. Use our newsletter to encourage continued and expanded participation by our existing owner base (Attachment 1);
2. Speak with SAHA and RCD (local non-profit housing developers with units located in Berkeley) about making additional units within their respective portfolios available to households with S8 vouchers;
3. Reach out to owners with Below Market Rent units, highlighting the benefits of participating in the S8 program, and encouraging them to consider leasing to families with Section 8 vouchers [we will be discussing this topic with the City of Berkeley Housing Advisory Commission in December];
4. Offer incentives to existing tenants who refer a unit and/or owner to BHA for leasing (Attachment 2);
5. Engage in discussions with the Mayor regarding the need to amend current regulations governing new construction to require more affordable units as a condition of building approval or density bonus; and
6. Explore incentive programs, with the City's financial backing, to encourage owner participation, including but not limited to: relief from business license tax, and non-interest bearing loans for damage repair/turning over a unit for re-leasing to a family with a Section 8 voucher.

With regard to preserving/protecting existing tenancies, we are mindful that the advantage the S8 program once offered – a Payment Standard equal to or greater than market rent – no longer exists (see October 21, 2015 SF Chronicle, Attachment 3). Owners, even long-term owners are looking to terminate existing tenancies as soon as possible. Some, after learning that they cannot “opt-out” are getting creative in terms of offering “cash for keys;” not making repairs to the unit (so BHA will terminate the Section 8 contract due to inadequate housing quality standards); claiming the unit is needed for an immediate family member; and strict enforcement of the rental lease, with eviction the sole remedy.

As an Agency we are:

1. Doing all we can to meet owner needs, and thus encourage continued participation;
2. Being careful and deliberate in determining if a condition in the unit jeopardizes or detracts significantly from the enjoyment of the resident and thus should “fail” Housing Quality Standards (HQS) or be a recommendation. In your letter you note “...*health and safety code violations are rarely enforced* ...” We are in fact very concerned and responsive to situations that create hazards for residents. That said, we are doing everything possible to avoid a situation where an owner is given an “easy out” of the program;
3. Advocating with HUD to increase Fair Market Rents so we can in turn increase the Payment Standard to something more aligned with current market rents;
4. Counseling current tenants to comply with all the terms of the rental lease, and eliminate any valid reason for an involuntary termination of the lease [see redacted letters used in actual cases, Attachment 4];
5. Closely tracking for terminations for any indication of a “constructive” eviction;
6. Offering mediation in cases where there are differences in opinion between owner and tenant;
7. Increasing rents that are below Payment Standard, up to Payment Standard, and discouraging owners from requesting more [we currently have one property where the owner has demanded, and received a contract rent increase above Payment Standard, the unit is now subject both to S8 program rules and Rent Control; and the family is paying approximately \$20 in additional rent];
8. Working closely with the Rent Board when we suspect an owner is attempting a “constructive” eviction; and,
9. Making contact with every owner at the end of an assisted tenancy, and encouraging consideration of another family with S8 rental assistance.

With regard to “Porting Out” – it is never the goal (desire) of BHA to have a family port (transfer) to another jurisdiction. However, HUD does not allow housing authorities to withhold opportunity for a family to live wherever it chooses including to port out of any jurisdiction unless (a) the family lived in Berkeley at the time of waitlist application and (b) there is insufficient funding, and the family porting is moving to a higher cost jurisdiction. In the case of families who did not live in Berkeley at the time of waitlist application, we have relented and granted some exceptions to our policy (requiring a family to utilize the rental assistance in Berkeley for one-year before transferring) – as a last alternative to the Voucher expiring, and the family having to reapply the next time applications are

received. The majority of these exceptions are made in response to a request for a Reasonable Accommodation on behalf of a disabled household member.

Local Authority

Your letter infers BHA, and in particular the Executive Director, has not acted appropriately in response to the affordable housing crisis, and the impact on African American families. It is important to understand the dynamics involved, the limitations on local authority, and the efforts being undertaken by staff:

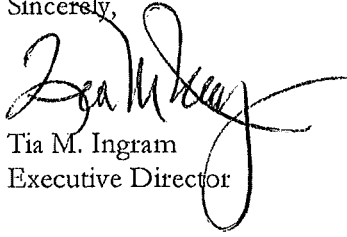
1. Owner participation in the Section 8 Voucher program. BHA can encourage participation via enhanced customer service, but has no authority to compel participation. Owners express three concerns as reasons for not participating in the program: insufficient rents; non-cooperative tenants; and failure of BHA to hold voucher holders accountable.
 - a. Insufficient Rents. Most, if not all, owners utilize housing units as a means of generating revenue (rental income). To the extent BHA can pay market rent (or more), an owner may be willing to be subject to the added requirements of the S8 program (i.e. annual unit inspections; requirement to make repairs) and rent to families with S8 assistance is attractive. This competitive edge is not present under the current Fair Market Rents that cap the amount of rent BHA can pay (currently conservatively \$400-\$600 under market). We have gone to great lengths to advocate for HUD to publish higher, more realistic Fair Market Rents.
 - b. Non-Cooperative Tenants. Recognizing that families with S8 vouchers do not forfeit any of their rights or protections, we have reminded, via newsletters and one on one conversations, to encourage families to be responsible renters.
 - c. Accountability. We have, on a case-by-case basis, counseled families and/or written warning letters, all with the goal of preserving tenancies. Where appropriate we have proposed termination of assistance for families unwilling to comply with program requirements, in some cases this is enough to garner improved and prolonged tenancies.
2. The City has a financial interest in approximately 1,700 affordable housing units in Berkeley: 338 Below Market Rate (BMR) units, and an additional 1,388 Housing Trust Fund (HTF) supported units; a small portion of these units are presently available to families with S8 Vouchers, and some of the HTF supported projects have Project-based Section 8 subsidy (provided by BHA) attached to them.
 - a. Below Market Rate (BMR) Units. Under current regulations owners of newly constructed developments must include a *set aside* of affordable units. The units must be rented to households at or below 60% Area Median Income (AMI); households served in the S8 voucher program have annual income at or below 30%-50% AMI. We have long advocated for the City to strengthen the requirement for owners of new developments to include housing for extremely low-income households. We will be making a presentation to the Housing Advisory Commission (HAC) on December 3rd, and welcome the support of NAACP. I will be certain to provide you an advance copy of our presentation.
 - b. Housing Trust Fund (units). The HTF has been utilized to develop approximately 1,388 rental units in the City of Berkeley; almost all owned or controlled by nonprofits. These projects are well managed, and often offer supportive services to residents. We have asked that the owners incorporate BHA into the marketing plan

for some or all of the units. This would significantly increase the supply of responsibly managed, affordable housing units for BHA clients (with S8 vouchers). Once again, we do not have the authority to compel such action.

With regard to the process for appointing a new Executive Director, the Board appointed a transition committee that consists of Carole Norris, Board Chair, and Commissioners Valerie Agostino and Dan Rossi. I shared with the committee, your interest in having a role in the vetting and selection process.

In closing, I see an important role for the NAACP in preserving affordable housing in Berkeley, and addressing the issue of economic and racial diversity in the City. I have often said "Berkeley is becoming richer and whiter." Thus, I encourage you to join Congresswoman Barbara Lee and many others in supporting BHA's efforts to increase the supply of affordable housing, especially for households with S8 Vouchers.

Sincerely,

A handwritten signature in black ink, appearing to read "Tia M. Ingram", written over a printed name and title.

Tia M. Ingram
Executive Director

cc: BHA Board of Commissioners
Mayor Tom Bates & Berkeley City Council

Attachments:

1. BHA Newsletters dated: August 2014, October 2014, December 2014 and June 2015
2. Owner/Participant Incentive Notice for Vacant Unit Referrals
3. *Vouchers fall short as rents skyrocket*, San Francisco Chronicle, October 21, 2015