

Baltimore Regional
Housing Campaign

NEW CHOICES

for all
families & children

**FAIR HOUSING AGREEMENT REACHED WITH HUD, STATE TO CREATE AFFORDABLE FAMILY
HOUSING IN OPPORTUNITY AREAS**

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The State of Maryland and its Department of Housing and Community Development have entered into a Voluntary Compliance Agreement and Conciliation Agreement (VCA) with the U.S. Department of Housing & Urban Development (HUD) and fair housing advocates, requiring the State to create 1,500 affordable housing opportunities for families with children in high opportunity areas of the Baltimore region.

The VCA resolves a complaint filed with HUD's Office of Fair Housing & Equal Opportunity in August 2011 by the Baltimore Regional Housing Campaign, a coalition of organizations that includes the ACLU of Maryland (ACLU), the Citizens' Planning & Housing Association (CPHA), and Innovative Housing Institute (IHI), all based in Baltimore, as well as the Poverty & Race Research Action Council (PRRAC), a national organization based in Washington, D.C.

The complaint filed by BRHC alleged that Maryland applied discriminatory policies and practices in the way that it administered the Low Income Tax Credit (LIHTC) program, the federal government's primary support for construction of affordable rental housing. BRHC alleged that the state's policies fostered segregation by steering affordable housing for families to high poverty black neighborhoods while excluding it from predominantly white areas with less poverty. For example, BRHC's analysis found that only a quarter of the LIHTC apartments built for families are located in low poverty areas with poverty rates of 10 percent or less. In stark contrast, half of the region's rental housing, and half of the LIHTC apartments restricted to seniors, are located in low poverty areas.

BRHC's investigation also found that a disproportionate amount of the LIHTC housing in the Baltimore region was built exclusively for the elderly and that elderly housing built in the suburban counties served mostly white seniors. Even when family housing was built in lower

poverty areas that offer strong schools it contained many one bedroom units and relatively few “family sized” three bedroom units typically needed by children and their families.

The complaint particularly singled out as a barrier to fair housing choice Maryland’s policy of requiring several forms of approval by local elected officials. Local approval requirements effectively gave politicians a pocket veto even over badly needed and well-designed projects or those opposed by residents of white neighborhoods for discriminatory reasons. A 2015 study conducted by New York University’s Furman Institute and published by HUD, singled out Maryland’s local approval requirement in finding that such policies appeared to have deterred the provision of LIHTC housing in low poverty communities. (Ellen et al., 2015), <http://furmancenter.org/research/publication/effect-of-qap-incentives-on-the-location-of-lihtc-properties>

“There is a growing recognition around the country that LIHTC and other affordable housing programs need to be more balanced in their locations, so that low income families with children also have choices outside of low income areas,” explained Philip Tegeler, Executive Director of PRRAC, one of the member organizations that came together as the Baltimore Regional Housing Campaign. “Maryland is joining a number of other states that are taking affirmative steps to promote fair housing.”

Following the BRHC’s complaint, the State began to reform its LIHTC policies to make it easier to develop affordable housing for families in “Communities of Opportunity,” lower poverty areas identified by the State as having features such as above average schools and educational attainment, and low levels of unemployment. In 2014, the State repealed the statute that it had relied on as the basis for giving localities a pocket veto, and in 2016 it took steps to offer the same level of tax credits for family housing in Communities of Opportunity as it offered to projects located in poor neighborhoods. These policy changes were welcomed by BRHC, but did not consistently increase the production of family housing within the higher opportunity areas of the Baltimore region from year to year. Last year the largest share of LIHTC was awarded to areas in Southern Maryland, the Eastern Shore and Western Maryland designated by the state as Communities of Opportunity, but where it is cheaper and easier to build.

The VCA is results oriented, requiring the State to produce no fewer than 1,500 net new units for families in Communities of Opportunity of the Baltimore region. At least 1,050 must be new construction, assuring that the State’s efforts will expand opportunities and not just recycle existing apartments.

Other key provisions designed to facilitate the expansion of affordable housing opportunities for children and their families include:

- The State will not reinstate its local approval requirements and will continue other reforms intended to facilitate production of family housing in Communities of Opportunity;

- Stronger incentives will be offered for development of family-sized housing, with two or three bedrooms, to meet the needs of families with children;
- Since transit service, as well as affordable housing has often been excluded from many of the region's high opportunity growth areas, the State will extend incentives for transit oriented development beyond existing transit corridors and encourage developers to offer creative transportation alternatives (such as ride-sharing, on-demand van services, and access to programs that make donated vehicles available to help low wage workers get to jobs);
- The State will enforce a federal requirement that LIHTC housing built in high poverty areas is part of a more comprehensive Community Revitalization Plan that goes beyond the housing itself, and includes investments in the types of services, infrastructure and facilities that children, families and communities need to thrive;
- To ensure equal access to the new housing opportunities, the State will require affordable housing developers to strengthen their Affirmative Fair Housing Marketing efforts, including outreach to families served by local public housing authorities and housing voucher programs;
- The State will pay \$225,000 to the BRHC to be used toward its attorneys' fees and to sustain the BRHC's mission of increasing housing choice, social equity and educational opportunity for low income families in the Baltimore region.

"This voluntary resolution with Maryland should be an example for every state and locality that runs affordable housing programs that our communities are stronger when quality affordable housing in high opportunity communities is offered to low income families of color," said Michael Allen of Relman Dane & Colfax, a national civil rights law firm based on Washington, D.C who represented the BRHC, along with the ACLU of Maryland.

"BRHC shares with the State a common mission to expand the supply of affordable housing to those in need," said Barbara Samuels, Fair Housing Attorney for the ACLU of Maryland. "There is more work to be done, but we see this agreement as a promising step forward, one that will strengthen BRHC's partnership with the State."

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