



Housing Preservation
Project

June 27, 2005

By Fax and Mail

Marilyn Fromm
Cambridge Housing and Redevelopment Authority
121 S.Fern St.
Cambridge, MN 55008
Fax: 763-689-9148

RE: Portability of vouchers;

Dear Ms. Fromm:

We represent _____, whose current address is _____, Cambridge. Ms. _____ holds a Section 8 voucher from your agency. The lease at her current address terminates at the end of this month and she wishes to use her voucher to move to Forest Lake. Earlier this month you informed her that she could not do so because Forest Lake has a higher voucher payment standard than Cambridge. Your action in telling her this violates applicable federal law. If your agency persists in violating federal law and our client's federally protected rights, it will incur legal liability and liability for attorney fees pursuant to 42 U.S.C. §§ 1983 and 1988. You must immediately inform Ms. _____ of her right to port to Forest Lake. Further, because your mis-information has caused Ms. _____ to delay her search for housing in Forest Lake, you must agree to provide her with 90 days to reuse her voucher.

Portability is a fundamental feature of the voucher program and you are violating the relevant statute and regulations by denying Ms. _____ the ability to port to Forest Lake. 42 U.S.C. § 1437f(r)(1), provides that any family with a voucher may use that voucher in any area in which there is an active section 8 voucher program. The regulations at 24 C.F.R. § 982.353(b) provide that a voucher holder "has the right...to lease a unit outside the initial PHA jurisdiction anywhere in the United States..." Thus portability is a fundamental aspect of the voucher program.

You may not address whatever financial problems your agency may have by denying voucher holders this fundamental right. The HUD regulation at 24 C.F.R. § 982.355(e)(6) is directly on point:

An (sic) PHA must manage the PHA tenant-based programs in a manner that ensures that the PHA has the financial ability to provide assistance for families that move out of the PHA program under the portability procedures that have not been absorbed by the receiving PHA, as well as for families that remain in the PHA program.

This regulation clearly provides that a PHA may not manage its financial resources to maintain vouchers for persons remaining in the PHA program while

eliminating portability.

I understand that recent HUD Notice PIH 2005-9 contains information that you may have interpreted as providing a basis for your advice to Ms. . HUD's information is contrary to the applicable statute and its own regulations. Further, even under HUD's notice, a voucher holder may request a receiving jurisdiction to absorb her voucher, so that your advice to Ms. was incorrect even under this notice. Finally, the portability language under the HUD notice applies only to a PHA which has determined that it has insufficient funds to pay for moves to higher cost areas. Please consider this a Minnesota Data Practices Act request for any determination which your agency has made that it has insufficient funds to pay for moves to higher cost areas and for all data supporting such a determination.

Please phone one of us by Thursday of this week with your response.

Yours truly,

Jack Cann
Tim Thompson

cc:

Diane Cmiel, HUD
Steve Gronwold, HUD
Barbara Dacy, Washington County HRA