NEW ORLEANS LEGAL ASSISTANCE

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August 16, 2006

Dr. George Smith
HUD Field Office
Hale Boggs Federal Building
500 Camp Street 9th Floor
New Orleans, La. 70130

RE: URGENT REQUEST FOR MEETING REGARDING JEFFERSON PARISH HOUSING
     VOUCHER PROGRAM DECISION NOT TO ACCEPT ORLEANS PARISH VOUCHER
     HOLDERS

Dear Dr. Smith:

It has come to our attention that the Jefferson Parish Housing Authority (JPHA) has recently
announced its intention to make itself unavailable to clients who resided outside Jefferson Parish
prior to Hurricane Katrina and who have either Housing Choice Voucher (HCV) or Disaster
Voucher Program (DVP) assistance.[1] While we fully appreciate the administrative, staffing, and
various other considerations that may have led to JPHA's revised assistance policy; we cannot
accept this policy because it runs afoul of federal law.

As you're probably well aware, one of the unique features of HUD's housing choice voucher
program is the "portability" feature. These portability features allow voucher holders to select a
unit anywhere within the jurisdiction of the issuing PHA, or anywhere outside the jurisdiction of
the issuing PHA so long as there is a PHA administering a program for the jurisdiction where the
unit is located.[2] Consequently, voucher holders may theoretically use their vouchers nationwide.

Under HUD's portability regulations, the receiving PHA is required to either: (1) bill the initial
PHA for the rent and costs of administering the voucher, or (2) absorb/accept the voucher holder
into its own program for which it would bear the costs out of its own HUD allotment.[3] Under
either scenario, once a family has satisfied the portability procedures and thus established a right
to lease a unit in the receiving PHA's jurisdiction, "the receiving PHA must provide assistance

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[1] http://www.jeffparishsection8.org/id5.html
[2] 42 U.S.C.A. § 1437f(r); 24 C.F.R. §§ 982.4 (definition of portability) and 982.353(b).
[3] 24 C.F.R. § 982.355(c)(5).

for the family."[4] In addition, the "[r]eceiving PHA procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA waiting list is not used."[5]

Furthermore, special portability rules apply when a family has a voucher under the Disaster Voucher Program (DVP) and the family moves to a new jurisdiction and requests continuing DVP assistance.[6] The receiving PHA must process the family's assistance request immediately. HUD will provide DVP funding directly to the receiving PHA, so there is no need for the receiving PHA to bill the initial PHA. To ease the administrative burden, HUD will provide an administrative fee to the receiving PHA for every month the family is under lease with DVP assistance that is equal to 10 percent of the actual DVP housing assistance payment.

Under the DVP operating requirements, a family who was previously assisted under the Housing Choice Voucher Program has the option to select either a regular Section 8 voucher or a DVP. A family could opt for a regular housing choice voucher if they were in an area that did not want to participate in the Disaster Voucher Program. Also, a family can opt for a regular housing choice voucher if the family cannot lease up until after October 1, 2006..[7]

In light of the above noted regulations, JPHA's assistance policy appears to run afoul of the federal regulations that govern the portability of vouchers. And under the circumstances it is irrelevant whether or not JPHA may be able to articulate lawful justifications for their decision to discriminate against non-Jefferson Parish residents.[8] As such, we urge JPHA to abandon its policy regarding non-Jefferson Parish residents and immediately return to the policy of providing assistance to all eligible clients.

We would like to set up a meeting with your office, the Jefferson Parish Housing Authority, the Housing Authority of New Orleans, HUD's Local Field Office Legal Department, and our office as soon as possible to try to resolve this matter. We would like to work out an amicable resolution if possible. If possible, we would also like to invite the President of the Section 8 Resident Council, Ms. Helen Lang to the meeting.

Thank you in advance for your prompt response to this letter. We hope that we can meet within the next few days since this is an urgent matter effecting displaced residents who are trying to return to the metro area to find housing. In the meantime, should you have any questions please feel free to contact me at (504) 529-1000 ext. 223, by cell phone at 756-4899, or by email at latuggle@nolac.org.

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[4] 24 C.F.R. § 982.355(c)(10).

[5] 24 C.F.R. § 982.355(c)(10).

[6] *See* HUD Notice, PIH 2006-12, *Disaster Voucher Program (DVP) Operating Requirements -- Rental Assistance for HUD-Assisted Families and Special Needs Families Displaced by Hurricanes Katrina and Rita* (Issued February 3, 2006).

[7] *Id.*

[8] *Avanesova v. Hous. Auth. of the City of Los Angeles*, No. CV 04-5588 (C.D. Cal. Dec. 20, 2004). The receiving housing authority was ordered to pay the porting tenant's voucher assistance because she properly complied with HUD's portability procedures; and it was deemed to be irrelevant that the Housing Authority for the City of Los Angeles had repeatedly failed to reimburse the City of Glendale for requests associated with various other transferred vouchers.

Sincerely,

Laura Tuggle
Managing Attorney
New Orleans Legal Assistance

cc: Kurt Davis, General Counsel, HUD Field Office
        Ms. Bobbie Robinson, Jefferson Parish Housing Program
        Ms. Naomi Roberts, Housing Authority of New Orleans Housing Voucher Program
        Ms. Helen Lang, HANO Section 8 Resident Council
        David Williams, NOLAC Litigation Director