

# Lessons for the Future of Public Housing: Assessing the Early Implementation of the Rental Assistance Demonstration Program

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## Introduction

In its 2018 budget, the Trump Administration is proposing to slash public housing funding by \$1.8 billion, a 29 percent decline from 2017. This is on top of nearly a decade of continued cuts to public housing, for both capital improvements and operations. The consequences of these perpetual funding shortfalls are dire for the 2.2 million residents who live in public housing, exposing them to significant health and safety hazards from the lack of maintenance, including exposure to mold and lead paint, rodent infestations, and outdated electrical and sewage systems.

While the Senate markup of the appropriations bill reverses some of the more drastic funding cuts proposed by the administration, the amount of funds allocated to the public housing operating and capital funds remains well below need. Nearly half (44%) of the nation's public housing stock was built before 1970 (Schwartz, 2017), resulting in significant need for maintenance and rehabilitation. However, federal funding for capital investments in public housing dropped by 50 percent between 2000 and 2015, generating a \$26 billion backlog of capital repairs (Fischer, 2014; Schwartz, 2017). The lack of maintenance is directly tied to the loss of public housing units: approximately 300,000 units—more than 20 percent of the total public housing stock—have been demolished over the past 20 years due exclusively to units being uninhabitable (Collinson, Gould Ellen, & Ludwig, 2015).

At the same time, the Senate markup lifts the current 225,000 unit cap on public housing conversions under the Rental Assistance Demonstration (RAD) program, signaling its support for the program. Congress passed RAD in 2012 to address the chronic underinvestment in public housing. Through the RAD program, public housing authorities (PHAs) can convert their portfolio of HUD-funded units to project-based Section 8 contracts, and in doing so, be positioned to tap into private sources of funding for real estate, including debt and equity. These funds can be leveraged to rehabilitate older buildings and protect units from obsolescence.

Though RAD may seem novel, most affordable housing built today is financed with multiple sources of funding. For example, the Low Income Housing Tax Credit (LIHTC) program, which helped finance 2.78 million units of affordable housing built between 1987 and 2014, has long used debt and equity financing to produce and preserve affordable housing (Office of Policy Development and Research, 2017). Debt financing is a powerful tool: it is the same principle that allows households to buy a home with only a down payment.

But debt financing also entails risks, including the risk of default. Ensuring that deals are appropriately underwritten—and have adequate gap funding support—is critical for the long-term financial viability of the properties. The introduction of debt financing also requires strong property and asset management skills, which do not always exist at the local level.

And RAD changes the governance and streams of funding for public housing, which has implications for housing authority capacity and sustainability over the long-term. Thus, mechanisms need to be in place for oversight and accountability, especially as it relates to tenants' rights and well-being.

In this policy brief, we summarize findings from more than 25 interviews with staff at public housing authorities and other organizations across the country who have been engaged in the implementation of RAD at the local level. The goal of this brief is to highlight the challenges that housing authorities have faced in implementing RAD in their markets, and to share best practices that have emerged in RAD implementation. Future research will look at the impact of RAD from the perspective of residents.

The brief covers RAD implementation in a wide range of housing markets, including communities in Arizona, California, New York, North Carolina, Tennessee, and Texas, to highlight RAD's flexibility and limitations in different market contexts. In San Francisco and New York, for example, RAD is being used as a tool to leverage funds needed to preserve public housing stock in the face of high housing costs and significant concerns over displacement. In Laurinburg, North Carolina, RAD is helping expand the capacity of the housing authority to manage its stock in a region hard-hit by the recession and ensuing job losses. In many of the markets that we studied, PHAs are converting all of their public housing under RAD—known as a “portfolio” conversion—allowing us to explore the implications of a changing institutional landscape for public housing at the local level.

Overall, respondents stressed the benefits of RAD, but also provided insights into how the program could be improved moving forward. Because many PHAs are still undergoing RAD conversion, and there are discussions at the federal level to lift the cap on the number of units that can be converted, these insights are particularly timely. Given political realities and federal budget constraints, RAD may well be the best prospect for preserving public housing going forward. The program could be made even more effective by drawing on the lessons learned on the ground in the first few years of the program.

## **An Overview of the Rental Assistance Demonstration Program**

Although RAD is a new program, the idea of allowing public housing to take advantage of real estate financing models has existed for several decades (Hanlon, 2017).<sup>1</sup> Earlier initiatives, such as the Public Housing Reinvestment Initiative in 2002, proposed to reallocate public housing funds to voucher-based contracts, allowing for a combination of rents and voucher payments to leverage debt financing for capital improvements. In 2008, the Center on Budget and Policy Priorities recommended a similar approach, noting that

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<sup>1</sup> For a more comprehensive review of the policy history leading to the passage of RAD, see Hanlon (2017).

keeping public housing tenants in project-based buildings was likely to lead to better outcomes than continuing the practice of demolishing obsolete units and transferring public housing residents to the housing choice voucher program (Sard & Fischer, 2008). Section 8 housing choice vouchers, which subsidize rentals in the private market, can be difficult to use, particularly in high-cost markets where the quantity of available units and/or established fair market rents are insufficient. In particular, elderly, disabled, and large family households—which comprise a large share of existing public housing residents—can face significant challenges in finding housing with a tenant voucher.

Recognizing the need to address the increased demolition of public housing in the face of physical obsolescence, the Obama administration first proposed public housing reform legislation in the form of the Preservation, Enhancement, and Transformation of Rental Assistance Act (PETRA) of 2010. PETRA was ambitious in scope (proposing the conversion of 300,000 public housing units and costing \$350 million), and from the beginning it faced considerable opposition on both sides of the aisle. Liberals were concerned about the potential loss of public housing and the negative impacts on tenants, while more conservative policymakers balked at the cost of the program. Over the next year, the administration developed the proposal for the Rental Assistance Demonstration (RAD) program, which represented a compromise for both sides. First, RAD's scope was limited to a pilot of 60,000 units; these initial conversions would serve as a "demonstration" to assess whether RAD could deliver on its promises. Second, Congress required RAD to be revenue-neutral, meaning that it did not allocate any additional public funding to the program (Schwartz, 2017). Third, RAD included a number of provisions to assuage concerns about the possible loss of public housing and negative impacts on tenants, including a commitment to one-for-one replacement of units, detailed protections to ensure long-term affordability of the development (including in the event of foreclosure), and the right to return for current residents.

When RAD passed in November 2011, demand from PHAs far exceeded the initial limit, and Congress has since lifted the cap twice, to its current level of 225,000 units. As of August 2017, more than 60,000 units had successfully undergone RAD conversion, with another 125,000 in the process of securing financing (U.S. Department of Housing and Urban Development, 2017b). In addition, there were nearly 43,000 units awaiting HUD approval for conversion and an additional 48,000 units on the waitlist (U.S. Department of Housing and Urban Development, 2017a). RAD conversions are taking place across the country, representing small, medium and large PHAs in both urban and rural areas. RAD has now eclipsed HOPE VI as the largest program to reposition public housing (Schwartz, 2017).

So how does RAD work? Although public housing is often thought of as a "federal" program, public housing units are owned by Public Housing Authorities (PHAs) established

at the municipal or county level. PHAs operate under contracts<sup>2</sup> with HUD that set the rules and regulations guiding the provision of public housing. Among other things, these contracts prohibit PHAs from taking on debt on public housing properties, as well as provide strict conditions governing unit demolition or disposition.<sup>3</sup> In exchange for managing these properties, PHAs receive operating and capital funds from HUD. However, Congress has long failed to provide sufficient and stable funding to cover PHA operating expenses (for example, utilities and security costs), let alone to invest in capital improvements (such as heating systems or roofs) or to set aside replacement reserves. This perpetual underfunding—coupled with uncertainty over how much will be allocated each year—has contributed to a backlog of unmet renovation needs of over \$26 billion, leading to a significant loss of distressed public housing units to demolition (U.S. Department of Housing and Urban Development, 2016).

A key goal of RAD is thus to transition units from public housing contracts and appropriations to a more stable source of funding, and to allow PHAs to leverage other public and private sector funding to address unmet capital needs. Under RAD, the designated “owner” of a residential building enters into a contract with HUD—known as a “Housing Assistance Payment” or HAP contract—in exchange for HUD subsidizing tenant rents. PHAs can apply this subsidy through project-based rental assistance (PBRA) or project-based vouchers (PBV), two types of project-based Section 8 contracts (Figure 1).

Both PBV and PBRA are existing HUD programs with long track records of success and sustainability. Under the PBRA Section 8 program, private owners enter into multi-year rental assistance agreements with HUD to provide and manage affordable housing units. Most owners are for-profit entities, but nonprofits (and some public housing agencies) also own a significant share of Section 8 PBRA properties. PBRA Section 8 housing is actually a larger program than public housing in terms of overall units (Hanlon, 2017).<sup>4</sup>

PBVs—the second option for RAD conversion—are administratively housed under the longstanding Housing Choice Voucher program (often colloquially referred to as Section 8).

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<sup>2</sup> Two of the important contracts that lay out the legal terms for public housing are the Declaration of Trust (DOT) and an Annual Contributions Contract (ACC). The DOT is a legal instrument that grants HUD an interest in public housing property. It provides public notice that the property must be operated in accordance with all public housing federal requirements, including the requirement not to convey or otherwise encumber the property unless expressly authorized by federal law and/or HUD. The ACC is the written contract between HUD and a PHA under which HUD agrees to provide funding to a PHA in exchange for the PHA’s agreement to provide safe, decent and sanitary housing to eligible families pursuant to all federal requirements (U.S. Department of Housing and Urban Development, 2009).

<sup>3</sup> There are some exceptions to this exclusion, known as “mixed-finance” public housing, which was used under HOPE VI and other legacy public housing modernization projects. Section 18 demolition/disposition also allows for mixed-finance which includes the ability to take on debt financing.

<sup>4</sup> Whereas PBRA consists primarily of housing under the Section 8 program, units funded under Section 236 are also considered PBRA (Hanlon, 2017).

PHAs with a voucher program receive a specific allocation from HUD, which covers both rent subsidies and administrative costs. While most of these housing choice vouchers are “tenant based”—meaning that the subsidy travels with the recipient who uses it to afford housing in the private market—the PHA can choose to make a limited number of their vouchers “project based” wherein the subsidy is tied to the units in the building.

**Figure 1: Differences between PBV and PBRA Conversion<sup>5</sup>**

<b>Project Based Voucher (PBV)</b>	<b>Project Based Rental Assistance (PBRA)</b>
<b>Initial Contract Term:</b> Minimum 15 years (20 years with consent of PHA).	<b>Initial Contract Term:</b> Minimum 20 years.
<b>Contract Renewal:</b> Mandatory. Upon contract expiration, administering agency offers, and PHA accepts, contract renewal.	<b>Contract Renewal:</b> Mandatory. Upon contract expiration, HUD offers, and PHA accepts, contract renewal.
<b>Congressional Appropriations:</b> As a subcomponent of the Housing Choice Voucher (HCV) program, PBVs are subject to annual appropriations as approved by Congress and allocated by HUD through each PHA’s Annual Contributions Contract. If Congress provides less than full funding for the HCV program, then PHAs administering HCV programs are faced with decisions regarding how best to absorb the impact of these cuts.	<b>Congressional Appropriations:</b> PBRA HAP contract renewals are subject to annual appropriations as approved by Congress. To date, HUD has never failed to renew a PBRA contract. This record has been upheld even in years when HUD did not have enough funding to renew PBRA contracts for a full 12-month period. <sup>6</sup>
<b>HAP Contract Administration:</b> Public Housing Agency (or partnering PHA if the PHA that owns the property does not operate a Housing Choice Voucher Program).	<b>HAP Contract Administration:</b> HUD’s Office of Multifamily Housing Programs.
<b>Choice Mobility:</b> Resident right to move with voucher (or other comparable tenant-based rental assistance) after 12 months from occupancy. Tenant-based voucher comes out of existing voucher supply from PHA, subject to availability. If no tenant-based rental assistance is available, the family is placed on a wait list and receives next available opportunity. There are no Choice Mobility exceptions in PBV.	<b>Choice Mobility:</b> Residents have the right to move with tenant-based assistance after the later of 24 months from date of execution of the HAP contract or 24 months after the move-in date. HUD allows PHAs to limit the number of Choice- Mobility moves under the PBRA program in two ways: 1) a PHA is not required to provide more than one-third of its turnover vouchers to residents of RAD properties requesting them in any one year; and 2) a PHA can limit Choice-Mobility moves to no more than 15 percent of assisted units in each RAD property.

<sup>5</sup> For a full description of the differences between PBV and PBRA Conversions, see U.S. Department of Housing and Urban Development, Office of Multifamily & Public and Indian Housing, *Rental Assistance Demonstration, Guide to Choosing Between Project-Based Vouchers (PBVs) and Project-Based Rental Assistance (PBRA) for Public Housing Conversions*, February 27, 2015 (technical correction April 20, 2015).

<sup>6</sup> During years where Congress has failed to appropriate sufficient funds to fully renew all PBRA contracts, it has allowed HUD instead to reduce the number of months of renewal funding to just the amount needed to extend the renewal into the next fiscal year.



There are a number of subtle differences between PBRA and PBV conversion (Econometrica, Inc., 2016; Solomon, 2013). Under the PBV option, PHAs tend to stay more involved in the administration of the properties, since they issue and monitor the vouchers. In addition, PHAs that select the PBV option receive voucher administration fees that can further support the agency's operations<sup>7</sup>; RAD conversion can also help to streamline operations by bringing public housing and voucher operations together (Solomon, 2013). In contrast, under a PBRA conversion, the PHA is likely to turn management responsibility over to another entity, and the program is administratively housed under HUD's Office of Multifamily Housing.

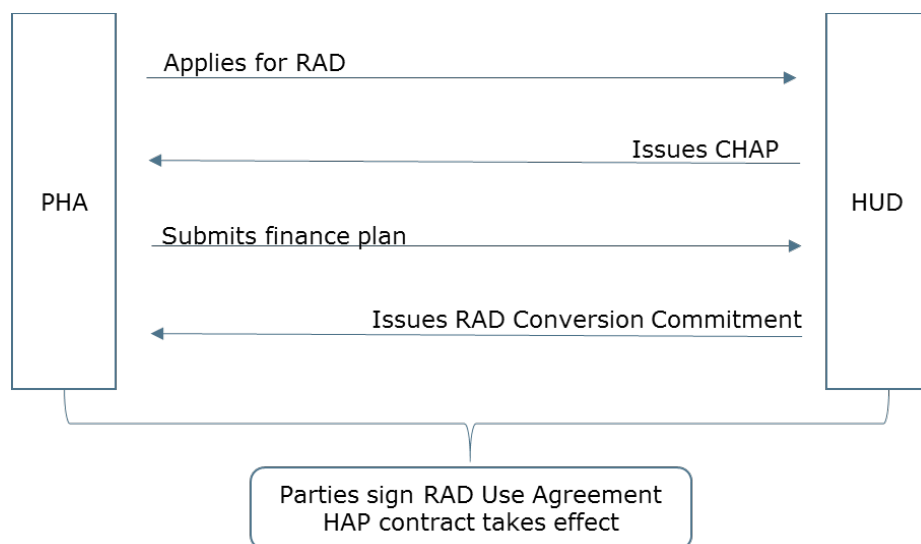
Once a PHA decides to participate in the RAD program, they need to identify the public housing buildings for conversion and demonstrate the financial viability of conversion (Exhibit 2). A PHA cannot submit a RAD application without approval of its board of directors, and it must also hold resident meetings at properties intended for conversion. HUD reviews the application materials to decide whether the proposal is sound enough to receive a conditional Commitment to Enter into a Housing Assistance Payment Contract (CHAP). If HUD accepts the application, HUD can either approve a CHAP or put the application on the waitlist. After approval of a CHAP, the PHA is required to provide a physical assessment of the building that describes its current and future capital needs. After a PHA has received a CHAP, it will finalize the financing and complete the documentation (e.g. ground lease) necessary to complete the conversion to PBV or PBRA.

The RAD conversion is considered closed when the Section 8 HAP contract has been signed and financial documents have been executed, which must occur within one year of receiving the CHAP award. At that point, the project is no longer "public housing"; it has converted to Section 8 assisted housing. The new owner—which can be the housing authority or another organization (e.g., an affordable housing developer)—is responsible for undertaking any rehabilitation work and long-term property and asset management, including making the debt payments, responding to tenants' work requests, and collecting rent. In some cases, these various aspects of managing the property over the long-term are contracted out, so the "owner" and the "manager" are not always the same entity. Transitioning from CHAP approval to conversion is not automatic however: once a CHAP is issued, the PHA may withdraw from RAD or HUD may revoke the CHAP if it deems the project is not financially viable (Econometrica, Inc., 2016). In this case, HUD will move to the next project on the waiting list for RAD conversion.

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<sup>7</sup> Any PHA that has a Section 8 voucher program receives administrative fees – this does not change under RAD. But PHAs that convert under PBRA do not receive administrative fees on those properties.

**Figure 2: RAD Application Process**



The RAD conversion from public housing contracts to Section 8 project-based contracts leads to important funding and institutional shifts. Most importantly, it removes the restrictions related to taking on mortgage debt. PHAs have tapped into a range of financing sources for their RAD projects, including debt, LIHTC, FHA mortgage insurance, grants (such as HOME and CDBG), and state and local housing trust funds (Econometrica, Inc., 2016; Smith, 2015). Key to their ability to access these other sources of financing is the prospect of a secure and stable source of funding from HUD. The Section 8 subsidy under RAD is based on the total amount of the operating fund and capital fund subsidies that a property currently receives under the public housing program *plus* the operating cost adjustment factor (OCAF). Because the Section 8 HAP contract provides these subsidies over the term of the contract, which can be 15 or 20 years plus automatic renewal, PHAs can leverage this long-term cash flow to finance debt. While the contracts are still subject to appropriations risk (in that each year Congress needs to budget the funds to pay the existing contracts), historically these contracts have been funded. The contracts are legally binding and policymakers know that failing to honor the HAP contracts would lead to significant tenant displacement and property defaults, including properties with FHA mortgages.

The conversion to RAD can also increase the ability of local PHAs (or the designated owners of the RAD units) to manage its operations more effectively. When an organization with a strong balance sheet and experience running high-quality buildings undertakes asset management, it can lead to improvements in property management and tenants' living conditions. The PBRA and PBV programs can also lead to the streamlining HUD rules and regulations, reducing the regulatory burden, especially on small housing authorities. Finally, HUD's project based programs have a more diverse and powerful political

constituency (including a large number of public and private property owners) than public housing has historically had, increasing the likelihood that these programs remain funded at current levels (Collinson, Gould Ellen, & Ludwig, 2015, p.7).

To date, research evaluating the RAD program has found that it is meeting its primary objectives (Econometrica, Inc., 2016; Schwartz, 2017). As of August 2017, RAD had raised \$4 billion of additional capital for public housing improvements, leveraging around \$19 for each allocated HUD dollar (U.S. Department of Housing and Urban Development, 2017b). However, important questions about the program and its impacts on the long-term financial viability of RAD properties, and especially on tenants and the future landscape of public housing, remain. In this brief, we focus on RAD implementation to highlight emerging best practices and ways the program could be improved moving forward.

## Key Findings

### **RAD is a Powerful Tool for the Preservation of Public Housing**

*The fact that we're finally investing several hundred thousand dollars into properties—immediately remediating very serious life-safety issues—indicates to me that, if we accomplish nothing else, it's been worthwhile. – San Francisco RAD Interview*

It is hard to overstate the horrendous living conditions confronting many public housing residents, especially those living in older units in large, urban areas. A tour of one building in San Francisco undergoing RAD conversion revealed the extent of needed repairs: several apartments had broken windows, covered only with pine wood planks nailed across the sill. A solid line of black mold covered the walls, and residents complained of the persistent smell of sewage resulting from toilet and sink overflows. As one resident expressed “it’s a slum property, but the landlord is the government.” Several buildings made of wood had significant dry rot – “the old barracks-style construction—you poke the windowsill and it crumbles” – while others were seismically unsafe. Rats and cockroaches, as well as other pest infestations, were common across San Francisco’s public housing portfolio.

These conditions in San Francisco are not unique; while not all public housing buildings across the country are troubled, the chronic lack of funding for capital improvements means that there is a significant backlog of maintenance that needs to be done to make many units livable, especially in cities with an older public housing stock. By most accounts, RAD is effectively responding to that need. RAD allows PHAs and their local partners to effectively leverage the same amount of money they would have received under public housing appropriations into additional funds (through debt and equity financing) that can be used to rehab units, including those in significant disrepair. As one developer noted, “Without RAD, it was just a matter of time before a large portion of all these buildings had to be vacated

one way or another and people would have been displaced.” In El Paso, for example, RAD allowed the PHA to leverage \$250 million in financing to rehabilitate its public housing stock, including approximately \$120 million in loans and \$75 million in tax credit equity. “It makes each public dollar go further, which appeals to fiscal conservatives, but at the same time it not only preserves affordable housing units from being demolished due to lack of funding, it makes those units better.”

Indeed, for PHAs that used RAD to rehabilitate their buildings there was universal agreement that from a physical standpoint, “it’s going to be night and day.” In some cases, respondents noted that the capital needs were so great that not all repairs would be possible, and that they were mostly breathing “10-15 more years of useful life” into the building. But “without a large-scale capital infusion from the federal government, more extensive investments just aren’t possible.” On other properties, RAD conversion allowed the PHA to make important health and safety upgrades to existing units (for example, addressing longstanding mold problems and removing exposed hot water pipes that represented burn hazards for young children), as well as installing more energy efficient appliances and heating systems.

RAD can lead to improvements in property management as well. Several interviewees pointed to the value of having new entities with expertise in property and asset management overseeing the developments. “You’re bringing in elements of competition and connections to the outside world in the management community that perhaps Housing Authorities don’t always have. We’re handing properties off to strong nonprofits that do really have property management as a primary function, and I think that’s going to be meaningful.” Although not the explicit focus of this research, residents we spoke with who had moved into new units in San Francisco commented on this shift as well, noting that it was a “new day” in terms of responsiveness to maintenance requests. “It just gets fixed.... I got a call back before the day was over. Before sometimes you’d wait months.”

In addition to expanding access to financing for rehabilitation and improving property management, another strong argument we heard in favor of RAD is the degree to which it allows PHAs to respond to local housing market conditions. The Executive Director of the El Paso Housing Authority noted that, “The public housing needs in El Paso are not the same as San Francisco, Berkeley, Los Angeles or Denver. I need to be able to look at my community and figure out what is it that we need to do. Under public housing, we were all asked to do things exactly the same way.”

Interviews with PHAs and other RAD stakeholders highlighted other benefits of RAD from an administrative standpoint. The first was more flexibility in funding streams and the ability

to direct funding to the areas of highest need. Several interviewees highlighted the “wrong pocket” problem, noting that under the previous system, “you couldn’t spend money in the way you needed because it was from the wrong bucket,” and that “sometimes I need money to be more fungible.” PHAs that serve as Moving to Work (MTW) agencies are given this flexibility under the MTW program (U.S. Department of Housing and Urban Development, n.d.), but for those not participating in MTW, the ability to manage their finances across their portfolio was seen as a critical improvement under RAD. As one PHA director noted, “The problem you have within the government system is that if you don’t spend the money, it means you don’t need it. In contrast, private industry has reserves so if things are broken, they have the money to fix them. Government doesn’t let you run like that. Under RAD we can create reserves so that when units start to age, we’ll have the revenue to address it. This was a game changer for us moving forward.”

Respondents also reported that RAD allowed them to streamline operations and improve how money is spent. In San Francisco, for example, the PHA had built up an unsustainable approach to dealing with maintenance requests given its limited resources; many simple tasks like replacing a broken window would require both a glazier (to fix the window) and then a painter if there was damage to the windowsill. Maintenance requests that required a specialist would often take months to complete. “The San Francisco Housing Authority (SFHA) had working protocols that simply don’t lend themselves to cost effective property management and repair. Now we have staff that can quickly respond to simple property maintenance requests at half the cost.”

Finally, several respondents—especially those from smaller public housing authorities—reported that RAD had helped to reduce their regulatory burden. For many PHAs, RAD conversion allowed them to streamline their operations and reduce the regulatory burden associated with public housing (Econometrica, Inc., 2016). However, some PHAs noted that over time, RAD notices have increased regulatory compliance requirements, and that some of the flexibility and streamlining promised under RAD have not materialized.

### **RAD Includes Important Protections against the Loss of Public Housing**

*The risk is that fears over “privatization” will result in running the whole public housing inventory into the ground, rather than taking some action that can save it. RAD is currently salvaging 10,000 units a year, but in that same course of time, we’ve lost at least that many units to obsolescence and chronic underfunding. We really need some serious action. – Public Housing Advocate*

One of the most significant concerns raised in Congressional debates over RAD’s passage was the potential loss of public housing due to foreclosure, or the conversion of units to market-rate after the 15- or 20-year affordability restrictions associated with the PBRA or PBV contracts expire (National Low Income Housing Coalition, 2012; Smetak, 2014). For

many proponents of affordable housing, market-based solutions represent a shift away from a federal commitment to public housing (as well as reflecting the broader retrenchment of the welfare state). The risk of foreclosure, particularly after the recent financial crisis, also loomed large, particularly for properties that take on mortgage debt as part of their financial restructuring under RAD.

Responding to these concerns, the federal RAD statute and subsequent notices incorporate a number of safeguards to ensure long-term affordability, making these protections stronger than previous iterations of public housing reform legislation. HUD requires that RAD properties be owned by a “public or nonprofit entity” (HUD, 2015, p. 30), which means that ownership is generally held by organizations that are mission-driven and committed to the long-term affordability of the project. The one exception to this rule is if the property is receiving LIHTC financing, but the PHA must preserve its interest in the property, for example, through a ground lease, control over leasing, or consent rights (Carnes, 2015).

Conversions are also subject to a RAD Use Agreement, which is “recorded in a superior position to any new or existing financing on a covered project” (HUD, 2015, p. 15; Smetak, 2014). This superior position means that the RAD Use Agreement is binding on all current and future owners, obligating them to comply with the affordability requirements even in the event of foreclosure. In the event of foreclosure (or another event like bankruptcy or fraud), HUD requires that the ownership of the property be transferred to a capable public entity, and if that is not possible, a capable nonpublic entity, as determined by the HUD Secretary. The Use Agreement also requires that if the HAP contract is removed (e.g., due to a breach), all new tenants must have incomes at or below 80 percent of area median family income and rents must not exceed 30 percent of 80 percent of area median family income (HUD, 2015, p. 48). This provision limits the ability of owners to convert properties to market-rate rents (Schwartz, 2017), though as we discuss in more detail below, may entail risks to very low-income tenants, particularly if Section 8 funding streams are cut.

In addition to the protections in the federal statute and notices governing RAD implementation, interviews revealed that in the cities we studied, PHAs are firmly committed to preserving the long-term affordability of these units and were taking additional steps to ensure the long-term stewardship of public assets. For example, in San Francisco, which is converting its entire public housing stock under RAD, the Mayor insisted from the beginning that ownership would be transferred to affordable housing developers (including both nonprofit and private developers), and that the housing authority would retain land ownership over the long-term. “The Mayor grew up in public housing, and is absolutely committed to the long-term affordability of these properties. He made it clear that public housing residents are San Franciscans and deserve to live in high quality

housing. RAD's not privatization – it's the city making a commitment to public housing residents in a way that hasn't happened before." Evidence of the city's efforts to preserve the long-term affordability of these units is pervasive, from the amount of city funds the Mayor's Office of Housing is dedicating to conversion to the stipulations and requirements it placed on each of the developers to ensure that they could not "cherry-pick" properties and that all residents were treated equally.

To convert San Francisco's portfolio of public housing buildings, the city identified eight "clusters" of public housing properties in different areas of the city. Each cluster was led by a developer team that included either a nonprofit affordable housing developer or both an affordable housing developer and a nonprofit, community-based partner. For example, PHA properties located in the city's Chinatown neighborhood are being converted by Chinatown Community Development Center, a long-time community development corporation with strong ties to the community and a deep commitment to preserving the affordability and cultural history in the neighborhood. Properties in the Mission neighborhood are being converted by the Mission Economic Development Agency—which also has strong local roots but less housing development experience—in partnership with BRIDGE housing, which has extensive redevelopment experience.

San Francisco's approach ensured that within each cluster, there was an organization with "deep roots in the locations" and further signified the city's commitment to investing in and supporting the landscape of affordable housing in the city. While realistically, San Francisco's conversion was too extensive for one developer to manage on their own, the city could have turned to external organizations to implement the program. Instead, they used RAD to support a broad range of affordable housing developers in the city (especially notable since RAD began during the recession, when other opportunities for affordable housing development were limited). In addition, Bank of America Merrill Lynch (Bank of America), which served as both the primary lender and investor on San Francisco's RAD deals, supported capacity building through direct grants and technical assistance funding through Enterprise Community Partners. Bank of America staff saw this as an important part of ensuring RAD's success, noting "We spoke with every developer to make sure that they understood what their strengths and weaknesses were, and even though it wasn't directly related to our business, supported them with direct grants. The city did a great job of picking the right players who could do this type of work."

While some cities like San Francisco are ceding ownership of the properties to developers under long-term ground leases, many other public housing authorities are maintaining ownership or interest in the housing post-RAD conversion. In New York, for example, the New York City Housing Authority (NYCHA) decided to use PBV to ensure that the agency would retain oversight over the converted developments as the voucher agency. "In

NYCHA's case, there was a benefit for us in using PBV because it showed that we were staying in the deal, we were going to be on the ball. We are the ones reviewing the vouchers, so if necessary, we can say "why are these people being evicted?" Interviews with stakeholders in New York—including a few who initially were concerned that RAD would lead to a loss of public housing—also noted that the mandatory renewal of the affordability contracts under RAD was critical in getting tenants' rights advocates behind the program. As one shared, "mandatory renewal of the contract is key. There were many fears around what happens in twenty years. I think that the fact that NYCHA is staying in the project – [and the] requirement to have a non-profit or a government agency remain involved—is critical."

In Charlotte, the PHA created a nonprofit management company to manage properties post-RAD conversion. This allowed them to expand their public housing portfolio, since they now had the infrastructure and capacity to do mixed finance on other properties. "RAD brought to light the fact that we had some expiring tax credit properties and when we went to them, they said they wanted to unwind the partnership or didn't want to be the general partner anymore." The PHA picked up nearly 800 additional units of affordable housing at the end of the LIHTC compliance period and ensured that they would remain affordable housing over the long-term. As the Executive Director pointed out, "In the end with RAD conversion, we will end up with more units under housing management – a larger portfolio than the PHA had in the past."

Respondents did not feel like the mixed-financing aspect of RAD conversions or the layering of tax credit financing posed an undue risk of foreclosure. One respondent called the foreclosure risk of using LIHTC for public housing "a red herring," noting that, "the tax credit program has been around since 1986, and there hasn't been an issue for all the nonprofits and private companies that have been doing tax credit deals.<sup>8</sup> For public housing, it's a misplaced battle." Another respondent similarly emphasized that RAD notices lay out significant controls even when the units are transferred to a private structure under a conversion with LIHTC funds. "Even with an LLC and limited and general partners, HUD maintains control in other ways. [PHAs are] typically a managing member of the LLC, and they often times will do a long-term ground lease. So they maintain ownership of the land and sell the improvements to the LLC...They can't ever give that up under RAD." These regulatory controls are important. In El Paso, for example, one of the "big battles" was to convince the LIHTC syndicators that the deal would not go forward without the housing authority maintaining the right of first refusal if the property went into default. "This wasn't

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<sup>8</sup> The LIHTC program, which has been in operation since 1986, has had a cumulative foreclosure rate of less than 0.7 percent (CohnReznick, 2015).



a situation where we're doing RAD and walking away. The [syndicators] wanted to deny us the right to refusal and we said "we're going to own these units in the end. We are not selling public housing. We're coming back in year 15 and we're taking these." While RAD's specific requirements presented challenges at the local level to get the deals done, respondents expressed that in the end they were able to develop legal agreements that effectively balanced both investor and public stewardship interests.

### **Addressing Tenant Protections under RAD**

*Affecting people's housing creates abject fear. – PHA Executive Director*

A second major concern raised by policy-makers was the impact of RAD on tenants, particularly the potential for the displacement of public housing residents. The experience of HOPE VI—which led to an overall loss of public housing units and displaced many low-income families, particularly African Americans—intensified concerns over RAD and what it would mean for tenants (Goetz, 2012, 2013).

Learning from these past experiences, policymakers included important tenant protections in RAD. Critically, RAD requires one-for-one replacement of public housing units, and stipulates that all public housing residents have the right to return after rehabilitation or construction is completed; local agencies are prohibited from rescreening existing residents (Fischer, 2014). The PHA must also provide relocation assistance to residents if they have to move during the process and permanently relocate them if construction lasts more than a year. In addition, RAD program guidelines require resident participation and engagement before, during and after conversion. The PHA is required to hold at least two meetings with residents at each project (to discuss how RAD might impact them) before submitting a RAD request and an additional meeting after HUD approves a CHAP. Resident participation funds, traditionally used to support resident councils in housing projects, must also remain available during this time (Carnes, 2015).

Interviews revealed that PHAs in the cities we studied were taking the issue of relocation and resident rights very seriously, and were developing innovative approaches to address concerns related to relocation and tenants' rights. However, more research is needed to understand the impact of RAD on residents, especially in light of reports that there have been issues in some places with RAD implementation and tenants' rights (National Housing Law Project, 2017).

#### *Relocation*

One of the most challenging aspects of RAD conversion at the local level has been tenant relocation. When possible, most PHAs we spoke with have attempted to do "on-site" rehabilitation, in which residents remained at the same property during the construction and rehabilitation work, either in their own unit (with the rehab work scheduled around them) or

in another unit in the same building. However, for buildings that required significant work, PHAs had to develop detailed tenant relocation strategies. Several PHAs approached relocation via “checker-boarding,” in which “one building will be empty, and then we’ll move the people to that building, rehab, then move people to the rehabbed building.” To do this, PHAs often create vacancies at other properties by not re-leasing units that become vacant through attrition. For example, in Maricopa County, Arizona, the housing authority “stopped leasing and allowed a normal transition over two years to naturally vacate about 50 percent of the project.” While this entails costs (from the lack of rents coming in on vacant units), it can save the PHA money in off-site relocation costs and facilitate easier moves and transitions for residents.

El Paso also stopped re-leasing public housing units to create vacancies once they received the RAD notice. However, recognizing that moving is traumatic even with established protections, the PHA developed a comprehensive relocation strategy and took several proactive steps to help residents through the process. First, the PHA established a team of nearly 20 staff whose job was focused almost entirely on providing “customer service” for tenant relocation. This included everything from communicating timelines and procedures to helping residents pack their belongings. Second, the PHA conducted an extensive survey of resident needs for relocation, including issues around accessibility, childcare, and schools. This survey helped to reveal the specific challenges a family might face as a result of relocation. “We know a lot about these families but we realized there’s a lot we don’t know. I can tell you how many kids there are in a family, but I can’t tell you if one has special needs we need to accommodate. I may know whether someone has a job but not whether they walk to work and how relocation may disrupt their employment access. We had to create a survey for the residents, to see exactly what the needs were.”

Third, the PHA worked closely with other city agencies to ensure smooth transitions. For example, staff created a mapping system that allowed them to overlay PHA properties with the local transportation and school district systems to be able to see how relocation would affect commutes and school attendance. Staff also began coordinating with the school district a year in advance, which allowed the school district to set a policy that allowed residents to go to any school within the city. “This was critical, because it gave tenants the ability to determine their needs and what was best for the child.” Finally, staff also worked to educate the private contractors working on RAD—for example, the companies hired to move residents—on the special needs of their tenants and how to be sensitive to their fears and the impacts of relocation.

### *Tenant’s Rights*

In addition to the negative impacts of relocation, a second major area of concern related to RAD was tenants’ rights and protections after conversion. The level of tenant and advocate

concerns related to RAD conversion varied greatly among the cities we studied. In Charlotte, the PHA was able to build on strong existing relationships with resident associations at each of their properties. “We already interact with them regularly; the CEO has a roundtable with them every month. When we came to talk them about RAD, it was a give and take conversation, we were able to educate people on what would happen. Largely what changed for folks was the subsidy platform, so that minimized concerns.” Similarly, some of the smaller PHAs alleviated resident concerns by pointing to other Section 8 PBRA or PBV properties in the neighborhood. The Executive Director in Laurinburg said that residents were concerned initially about what RAD conversion meant for their rents, but that after a series of resident meetings, these concerns were alleviated. “We held meetings throughout the application and implementation process. Residents were generally excited about mobility in Laurinburg. In Maxton, which converted to PBRA, we said that after conversion the development would operate like Steeds Circle Apartments (a multifamily property owned by the Authority), ‘just like the folks you know living there.’ That was a good example for them. They understood what that would look like and it alleviated their concerns.”

In contrast, in New York and San Francisco, longer histories of public housing activism and distrust of the housing authority required that the city address tenants’ rights beyond what was laid out in the statute. In New York, a broad coalition of stakeholders—including The Legal Aid Society, Community Service Society, Enterprise Community Partners, and resident leaders—came together when it first became clear that NYCHA was going to undertake RAD conversion on its Ocean Bay Properties.<sup>9</sup> The coalition convened regular meetings (almost weekly) over three months. Early meetings provided education about what RAD entails and the nature of protections embedded in the program. Later meetings served as a forum to discuss concerns around displacement and rent increases. The group directly addressed resident concerns: “So things like pets and washing machines—things that affect their daily lives—those are the things that people become really focused on. Certain developers don’t really want to have households with dogs and things like that. So those kinds of things were definitely things we had to spend a little more time working through.” The group also began to identify gaps in protections, such as grievance and termination procedures, and negotiated principles so that residents living in RAD properties were afforded the same protections as those living in non-RAD NYCHA buildings. “We came to the table and we were pretty open with each other, and there was a level of transparency and communication and goodwill because we were trying to get this happening together with protections and things like that. That’s not necessarily the relationship that most public housing authorities have with the residents or CDO’s and other stakeholders.” In San Francisco, the Mayor’s

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<sup>9</sup> For a complete list of organizations that participated in the RAD Roundtable and the RAD guiding principles that emerged from the coalition’s work, see <http://www1.nyc.gov/assets/nycha/downloads/pdf/rad-principles.pdf>.

Office of Housing similarly established separate working groups to address various aspects of the conversion process, such as house rules and the lease agreement, grievance procedures, relocation, supportive services, housing retention, and screening procedures.

Engaging with tenants around RAD conversions did pose challenges. Several interviews revealed regret for not beginning resident engagement sooner. “The timeline for RAD conversion doesn’t align well with the time it takes to educate residents and build trust around the process. Starting earlier might have helped us get ahead of the concerns and better minimize the impact on residents.” The required minimum of three meetings with residents was not nearly sufficient in most places: in New York, for example, NYCHA held more than 17 meetings and workshops with Ocean Bay residents before closing on its RAD conversion, covering not only tenant education about RAD and updates on the project, but also opportunities for employment and succession rights.

Other interviews pointed to a natural tension between resident engagement and property management. “We gave residents the opportunity to comment and took their feedback seriously. But not every request can be accommodated, especially when we’re working with limited resources. For example, we couldn’t change the color of the walls in their unit. Tenants in market rate buildings wouldn’t be able to request that either.” Another challenge is that a single “resident” constituency does not really exist: in general, only a handful of residents participate and provide feedback, and even among those smaller groups there can be differences of opinion. For example, one of the areas that tenants were most interested in providing feedback on was house rules. “That’s a really big deal for anybody—what are the rules in your building? What can you do? What can you not do? But then some residents don’t want things to be too strict and other residents want things to be much stricter. Balancing that is hard.” Some respondents suggested it would be helpful if RAD included funding to provide residents and tenant organizations with resources and technical assistance to participate more effectively throughout the RAD process (Human Impact Partners et al., 2012; National Low Income Housing Coalition, 2012).

Another point raised in the interviews was that RAD can lead to a “culture shift” in property management. Public housing residents have the right to automatic lease renewal and administrative grievance procedures. While these rights are preserved under RAD, the structure of these procedures differ and can leave some tenants feeling more vulnerable than in public housing. In San Francisco, management challenges at the SFHA meant that rent collections and the recording of payments were not always completed, allowing tenants to forgo paying their rent. As one respondent noted, this non-payment “was warranted since the units were not being taken care of,” with residents living in “deplorable conditions.” However, under RAD the non-payment of rent will not be possible over the

long-term since those rent payments are critical to meeting the developer's financial obligations to the lender.

This is where the capacity and motivations of the developer teams become critical. In San Francisco, developer teams drew from their past experiences working with public housing residents in a mixed-finance transaction. The John Stewart Company, for example, had confronted similar issues on its Hunters View project in San Francisco, and knew they needed to work closely with residents to clarify new obligations and to connect them to resources as needed. "We're offering a new social contract to the residents: we're going to renovate your property, we're going to be a responsible management agent, and we're going to return your calls. But we're also going to know what rent you owe and why, and we're going to know when you are and aren't in arrears. All of this was brand new to them after many years of housing authority management. We figured we could deal with it, and we are." Tenderloin Neighborhood Development Corporation, which has a long history of providing affordable housing to very low-income and vulnerable households in San Francisco, similarly drew on its property management expertise to educate and work with residents during the transition. Their approach includes supporting residents with services that were largely absent under SFHA management, "which can make a huge difference to their overall well-being".

Ensuring that residents pay rent on time was a key issue for Bank of America as well, since assessing whether a property will meet its payments is a standard part of their risk management. As a result, they saw investing in tenant education as an important component of successful RAD conversion. "For the first time ever, a bank is financing services for tenants. We knew that tenants were not paying rent before. So part of the grant money that we provided for services was for education for tenants. We knew that the developers weren't going to be successful and the city wasn't going to be successful without it."

For RAD to be successful, it needs to balance vulnerable tenants' needs with prudent financial property management. Among those we interviewed—including those concerned with tenants' rights—most felt like RAD had effectively "thread the needle" to ensure the best outcomes for residents and the properties. However, the intrinsic tension between the need to effectively manage a real estate asset and house extremely vulnerable households deserves continuing monitoring and evaluation, since it has implications for both tenants and the long-term financial viability of public housing. In addition, PHA capacity and attention to tenant issues is likely to vary across cities; vigilance to ensuring that equal protections and education are provided across cities is essential to "threading the needle" in all places.

Finally, there is the risk that these properties will serve fewer of the most vulnerable families going forward. Although RAD prohibits rescreening of existing residents, managers could exclude future residents with poor credit, past evictions or nonpayment of rent, and other issues. While this is true of public housing as well, historically, public housing has served the most vulnerable households who are most in need of stable, subsidized housing (Human Impact Partners et al., 2012; Lee, 2015), and many have been living in public housing for a long-time. Because very few RAD properties in the cities we studied had been in place long enough to experience turnover, it is too early to assess whether this may occur over time. Additional research will be needed down the road to evaluate whether the composition of public housing residents changes under RAD.

### *Choice Mobility Vouchers*

One of the unique aspects of RAD related to tenants is that it includes a mobility component. Residents living in RAD properties have the option to apply for a tenant-based voucher after they have lived in the converted housing for one or two years, depending on whether the property is PBV or PBRA (Carnes, 2015). This option is designed to give residents more housing options, for example, allowing families to move to higher-opportunity areas if they choose. In addition, policymakers believed it could help to incentivize good property management so that residents do not choose to leave as the result of poor building conditions.

Interviews revealed mixed sentiments on RAD's "choice mobility" provisions. Concerns centered around three key themes. First, respondents in the high-cost markets were concerned that tenants would not be able to find suitable units with a voucher. In tight rental markets, voucher holders often struggle to find suitable housing; there is no federal requirement that private landlords accept vouchers and many tenants experience discrimination based on source of income (Smetak, 2014). As a result, residents may not be able to translate their voucher into actual housing, or may be forced to make trade-offs between using the voucher and unit location or quality. In Macon, Georgia, for example, residents have found that the voucher payment standard is insufficient to move into more affluent neighborhoods with better schools (Blankenship, 2016). While these are limitations of the Section 8 program and not something that RAD can fix, several respondents emphasized that it is important that residents are provided with sufficient information about the strengths and potential pitfalls of choosing a voucher when they become eligible for one.

Second, some respondents felt like the "waiting time" to receive the voucher is somewhat arbitrary, and may actually work against residents' best interests. Having to wait one or two years to move may pose an undue burden on tenants who are also relocated as part of the rehabilitation process—"if they want to go elsewhere, why can't they just go when

relocation happens, rather than having to move twice?” Some have argued that HUD should allow more families to relocate before financial closing, especially if doing so minimizes school disruptions and developer costs (Swerdlow, 2016).

The third theme that was raised relates to how giving RAD families priority for vouchers impacts the PHA. “The issue with mobility is that when you close on a portfolio conversion to a PBV property, in the first month of the second year all the converted tenants become eligible for mobility at the same time. There’s no way to avoid that. But it creates issues related to filling units and maintaining voucher utilization.” While it is unlikely that everyone would want to move— especially if the property has been rehabbed and is well-managed—in a weaker rental market, vouchers can contribute to greater turnover in the RAD properties, which may increase vacancy rates and impact the cash flow on the property. In addition, it may have a negative impact on households on a Section 8 waiting list, as those families are moved further down the list to accommodate RAD households who are eligible for the next available vouchers. As one respondent noted, “It’s unfair to our Section 8 waiting list who get bumped from priority. And there’s less motivation for someone with a RAD mobility voucher who already has subsidized rent to lease up than someone who is really rent burdened or in substandard housing.” An important question for further research is the degree to which RAD households take up the voucher option, and their ability to translate that voucher into high quality housing, as well as having greater neighborhood choice.

### **Congressional Appropriations in Support of Public Housing, Voucher, and Project Based Rental Assistance Programs Remain Critical**

*I think the fundamental issue with RAD is the differential between RAD rents, meaning the allocation of current public housing operating and capital funds, relative to the Fair Market Rents that most of the world operates under. – National RAD Consultant to PHAs*

The Obama Administration first proposed public housing reform with a request for \$350 million in funding. While this was significantly below the funding needed to address public housing’s overall capital backlog, additional funding *would* help to leverage more private capital, and bring public housing rents closer to fair market value (FMR). However, it became clear that in the 2012 political environment, Congress would not approve any program that required additional funding. HUD’s RAD team determined that a cost-neutral program could still be effective, helping to preserve public housing in areas where existing public housing subsidies would align with local fair market rents. While the vast majority of respondents felt the risks of foreclosure and loss of affordability were low, they did point to a key risk: the unwillingness of Congress to appropriate funds for RAD (requiring that the program be cost neutral) further compounded by the Trump administration’s proposed cuts to the HUD budget, including to PBV and PBRA.

*Rents Allocated to RAD Conversions are Insufficient in Many Markets*

The lack of additional appropriations for public housing or RAD conversions has created significant implementation challenges, especially in higher cost markets or for properties that require substantial rehabilitation. As described earlier, RAD rents (which comprise the “income” stream on the property) are based on the combined streams of funding that PHAs receive under their public housing operating and capital fund budgets – in other words, in the first year, the RAD rental income on a property is the same as it would be without RAD conversion. Over time, however, RAD conversion will lead to a higher revenue stream on the property because Section 8 HAP contracts are subject to rental increases based on the Operating Cost Adjustment Factor (OCAF), which has averaged a two percent increase over the past decade, while public housing operating and capital funds have declined year over year.

Although RAD can lead to longer-term financial stability from a cash flow perspective, the low initial rent payments often mean conversions are not financially feasible. In Los Angeles, for example, RAD conversion would translate into rental of income of \$586 to \$731 for a 2-bedroom unit, substantially below fair market rents for the area.<sup>10</sup> This means that the rental income stream may be insufficient to “carry” the debt that would be needed to do rehab, especially if there are significant renovation needs. As one respondent noted, “RAD will not work for most PHAs because of the rent structure that Congress has imposed.” This makes RAD infeasible in many cities, especially where there are huge capital backlog needs.

San Francisco made RAD work in a particularly innovative way by applying for conversion for almost its entire stock of public housing at once--3,400 units--and using economies of scale to negotiate the best possible terms from third party financing sources. The San Francisco Mayor’s Office of Housing (SFMOH)—with financial consulting assistance provided by the California Housing Partnership Corporation – directly managed the initial assessment and structuring of the rehabilitation and financing needs for all 28 of its public housing sites at the same time. This allowed SFMOH to better understand the rehabilitation needs at each site, what subsidy each property would require, and how much debt and equity could be leveraged. For example, family buildings in the city had much higher rehabilitation needs than buildings designated for seniors. San Francisco then received a special waiver from HUD to apply a limited number of Tenant Protection Vouchers (TPVs) to the properties. TPVs are priced based on the average rents currently paid for comparable housing in the PHA’s territory—rather than RAD’s cost-based rents based on existing public housing operating and capital subsidies. The higher rent payments from the TPVs can then support

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<sup>10</sup> This is the rental income on the unit, not what the tenant pays. In general, public housing residents pay 30% of their income towards their rent.



more debt and/or equity.<sup>11</sup> “The TPVs were like little pieces of gold that we could weave into each property to help balance the books. It was incredibly complex, especially as we learned more and more about the real rehab needs on each of the buildings.” The City and CHPC also worked to create a competitive market among major bank LIHTC investors and lenders at a portfolio level (something that had never been done before) to ensure the best financing terms for the city. In addition, San Francisco had the advantage of having several banks interested in financing the RAD deal to meet their obligations under the Community Reinvestment Act (CRA). As a result, the city was able to negotiate favorable tax credit pricing, getting above \$1.20 for each dollar in tax credits. San Francisco is also putting \$100 million in local funds towards the RAD conversions, demonstrating the city’s commitment to preserving affordable housing. However, without these additional funds and strategies, RAD would not have been feasible in the city.

New York faced similar initial challenges in getting RAD to work, due to the combination of a large backlog of capital needs and the low rents they could bank under RAD. Ocean Bay (Bayside), a property which NYCHA converted under RAD, was only possible due to some unspent HOPE VI funds, as well as a large FEMA grant that they received to address the damage caused by Hurricane Sandy. When NYCHA explored the feasibility of RAD conversion for some of its smaller public housing buildings, the financing did not work, especially when RAD requires that the projects underwrite to a 20-year project needs assessment. “With RAD-only we came up with a \$465 million financing gap, so it doesn’t underwrite.” Like San Francisco, NYCHA developed a strategy that combined RAD and TPVs together in order to finance the rehabilitation.

In El Paso, the PHA drew on their own capital reserves to make the financing work. Their experience highlights that even with RAD and debt leveraging, access to capital to undo the legacy of chronic underfunding of public housing still falls short in many markets. “The biggest problem remains access to capital – 4% tax credits are not enough money to do what you need to do.<sup>12</sup> El Paso is one of the strongest PHAs in the country, so if we were struggling with it with significant reserves, it kills the opportunity for other PHAs.” However, interviews in El Paso and other cities also highlighted that additional funding does

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<sup>11</sup> San Francisco also had to request a special adjustment to TPV rents to account for the influence that rent control in the city has on local rents.

<sup>12</sup> LIHTCs are dollar-for-dollar tax credits for affordable housing investments, administered by the Internal Revenue Service. They provide funding for the development costs of low-income housing by allowing investors to take a federal tax credit over a 10-year period equal to a percentage of the present value of the cost incurred for development of the low-income units in a rental housing project. Projects for new construction and rehabilitation, if not funded by tax-exempt bonds, can receive a maximum annual tax credit allocation of 9 percent of the project’s eligible basis, which consists of building acquisition costs plus construction and other construction-related costs. The cost of acquiring an existing building (but not the land), and projects financed with tax-exempt bonds, are eligible for a credit of 4 percent annually.

not need to come from HUD's public housing budget per se. One respondent noted that mayors in other cities—especially in regions with pressing affordability concerns—could learn from San Francisco and use political influence to raise local or state funds to close the gap. Another noted that changes to LIHTC could also help make RAD work in more places. “The amount of money you receive under 4% needs to be looked at and raised. That would give opportunity for other PHAs and us to really fix the units the way they need to be fixed so they're here 80 years from now.”

A final point raised by respondents was that, in addition to limiting the feasibility of RAD in certain cities, the lack of additional funding for RAD also hampers efforts to undertake rehabilitation in better neighborhoods and in neighborhoods that are experiencing escalating rents—precisely the neighborhoods in which preserving public housing stock may be the most impactful. For example, in an increasingly expensive and competitive market like Charlotte, the inability to allocate rents at fair market value put pressure on deals that initially looked feasible. “Changing market conditions definitely makes it harder when the RAD rents don't reflect market values. Eighteen months ago, we had a project that penciled at \$125,000 a unit. Now we're up to \$200,000 and worried about making that work.” Smaller cities with weaker markets reported struggling with RAD rents as well. One executive director of a small housing authority in the South noted, “I really wanted to take some obsolete units out and do a tax credit deal. But because the RAD rents were so low, we couldn't make it work.”

### *The Importance of Maintaining Funding for PBV and PBRA Contracts*

Another financing concern that was raised during the interviews with local PHAs was the long-term viability of the PBV and PBRA programs. Historically, Congress has exhibited more support for the PBRA and PBV programs than for public housing, meaning that these are considered more “stable” and “predictable” funding streams (Econometrica, 2014). For example, the HUD budget reveals an upward trend for the PBRA program since 2005, compared to the continual cuts to public housing (Jordan & Poethig, 2015; Schwartz, 2017; U.S. Department of Housing and Urban Development, 2016). Voucher funding, while having declined slightly since its 2009 peak (adjusting for inflation), remains higher than its 2005–2007 funding levels.

The overall unease around sustained funding was a factor in PHAs' choice between a PBRA or PBV conversion. PHAs that selected PBRA generally noted they felt that this program had a stronger political base that would protect it against significant budget cuts. Owners of PBRA developments run the gamut of entity types—from nonprofits to smaller landlords to larger private real estate developers—meaning that the program has a large and powerful constituency when it comes to Congressional appropriations. In contrast, many

respondents noted that the funding for the voucher program is “subject to the whims of Congress.” Voucher cuts are also easier to “hide.” As one respondent shared, “I think the voucher appropriations are a little bit scarier. For example, in Massachusetts, they had a large state aided program patterned after the Section 8 voucher program. When times got tough, they just cut it, which was fairly easy to do because they could just stop filling turnover units, and that was that.” However, those PHAs we spoke to who were using PBV found that the contracts provided sufficient security to borrow against, in spite of concerns over the long-term viability of the program. PHAs who chose PBRA also preferred being administratively housed under HUD’s Office of Multifamily Housing. Unlike PBV, which is still administered via HUD’s Office of Public and Indian Housing, PBRA follows a “conventional, market-driven approach” and is therefore “an easier thing to underwrite for lenders and investors.”

PHAs that chose PBV conversion did so for three primary reasons. First, as in the case of New York described above, the PBV option allowed NYCHA to maintain more control over the property as the key agency overseeing voucher operations. Second, several smaller PHAs reported that the administrative fees associated with the voucher program were important to their operations budget, for example, to pay staff salaries. Third, not all PHAs have experience working with HUD’s Office of Multifamily Housing. One respondent noted that “most small PHAs don’t understand PBRA and haven’t worked with [HUD’s Office of] Multi-Family before. They don’t know that there needs to be enough cash flow out of the rents to support management, there have been some small PHAs that have gotten hurt by that.”

For all respondents, RAD conversion was critical to stem the deterioration and loss of public housing, but across the board, PHAs pointed to the fact that if funding for PBRA and PBV programs is cut, the long-term future of federally subsidized housing—not just public housing—is at risk. This is particularly true when those funding streams are used to leverage debt. As one respondent shared, “When you leverage the PHA based on revenues that are no longer there, it places the PHA at great jeopardy. They’re going to come for the money one way or another and if the federal government isn’t giving you the subsidy, you lose the units, they’ll be foreclosed on.”

So while RAD makes government funding for affordable housing more efficient—leveraging at least 19 private dollars for every public dollar spent—it is still federally supported housing and relies on public subsidy. While most respondents believed the current RAD HAP contracts will likely be honored—especially with PBRA—further cuts to these programs would undermine local efforts to house very low-income families. In many cities, for example, Section 8 vouchers have long waiting lists, reflecting a shortage of vouchers in the face of

need. If the voucher program sustains further cuts, fewer households on those lists will have the opportunity to receive a voucher to stabilize their housing.

Respondents also raised concerns about what tax reform and/or other budgetary cuts might do to the viability of future RAD deals. For example, if proposed efforts to enact corporate tax reform are successful, the changes to the tax code will likely affect the amount of LIHTC equity that can be raised and the value of the credits, which in turn will influence whether RAD deals pencil out. In addition, a significant share of RAD rehab projects depend on gap funding from other sources—such as HOME, CDBG, or local housing trust funding dollars—to work. Thus, to some degree, the long-term effectiveness of RAD in preserving a greater share of public housing units will be dependent on other sources of funding for affordable housing.

### **Challenges to RAD Implementation at the Local Level**

*“We’re flying the plane as we’re building it.”* - Interview with HUD Staff

Interviews also revealed challenges related to RAD implementation. Even the most detailed regulations are unable to anticipate all the issues that can arise in implementing a new program, so PHAs often had to turn to HUD staff to make decisions on issues as they emerged. In addition, HUD had not anticipated the high demand for RAD conversions, leading to capacity constraints at HUD for processing the multiple steps of RAD applications and completing the closing process. Overall, however, respondents praised the RAD team at HUD for their responsiveness and willingness to address issues as they came up.

One of the harder challenges was overcoming silos within HUD. RAD often required collaboration with several HUD divisions, each which tended to be focused on their own narrow area of responsibility and were often unaware of how their work contributed to or interacted with the larger goals of RAD. “[Some] folks were very set and entrenched in their own narrow set of rules and perhaps not interested in taking on something that would allow their program to be used by a different group of users or from a different angle.” For example, as noted above, San Francisco made RAD feasible by receiving tenant protection vouchers under the Section 18 demolition/disposition program for eight of its properties that needed substantial rehabilitation. However, the Section 18 program is run by HUD’s Special Applications Center in Chicago (administratively a division within Public and Indian Housing), and its primary goal is to ensure that PHAs are not demolishing public housing unless the building is truly unsafe or obsolete. As a result, it was a significant hurdle to get permission to use Section 18 in combination with RAD, despite the fact that it was the only way that San Francisco would be able to preserve public housing in the city.

Respondents also pointed to challenges associated with fair housing concerns. As the RAD program was rolled out, the Supreme Court ruling in the Texas Department of Housing and

Community Affairs v. The Inclusive Communities Project, Inc. case in 2015<sup>13</sup> coupled with the release of the Affirmatively Furthering Fair Housing rules led HUD to focus more attention on fair housing issues. While most of these rules pertained to new construction or site selection under RAD, even respondents doing rehab noted that they ran up against concerns that RAD investments might serve to concentrate affordable housing in high-minority neighborhoods. “Fair housing is a critical goal, but when you’re doing rehabilitation to preserve much needed affordable housing—especially in high cost markets—you need HUD to realize that a blanket policy of ‘you can’t build there’ isn’t always going to bring you to the best outcome.”

Among some PHAs who sought RAD in part to reduce the regulatory burden of public housing, there was also a sense that the program had evolved to put in place more bureaucracy rather than less. “We experienced a bit of bait and switch. It was ‘come do RAD – there’s a lot of flexibility,’ and then there’s not. All the historical and environmental requirements, the paperwork– the exact same as traditional public housing.” Another respondent similarly noted that they had seen an increase in regulatory scrutiny: “When we were promised RAD, it was to be a lean nonregulated environment where we could seek our own destiny. Since then, HUD has stepped back in and re-regulated multi-family. We don’t have same rights in multifamily as private industry. You need the deregulation to be innovative and flexible.” Conversely, other stakeholders noted that their concern was that RAD did not provide enough oversight or accountability mechanisms. “While RAD it is still reliant on public funds and entails public ownership, and in some cases the PHA is still actively involved, in other cities it does shift accountability to a new set of institutions who are operating by market logics. This requires significant oversight, something that HUD has historically not been very good at.”

Respondents also pointed to deadlines related to RAD conversion and/or relocation and rehabilitation as a challenge. The RAD team at HUD was “under pressure to show performance,” and didn’t want the demonstration to falter due to the lack of successful conversions. As a result, RAD set clear timelines for the various stages of the conversion. While these timelines have been loosened for portfolio conversions, the initial implementation of complex, multi-property deals such as in San Francisco, ran up against those deadlines. For example, San Francisco—which was rehabbing 28 properties—received an 18-month timeline on Phase I, but HUD required that they needed to close on Phase II within a year after Phase I. “This was a serious challenge. Our developer partners were constrained already in terms of capacity as a result of Phase I, so we didn’t have as much time as we would have liked to do the advance planning for Phase II. Ultimately, in terms

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<sup>13</sup> For more information on this ruling, see <http://www.scotusblog.com/case-files/cases/texas-department-of-housing-and-community-affairs-v-the-inclusive-communities-project-inc/>.

of protecting scarce public resources it would have been great if we had another six months to figure it out and go through the rent bundling process. I think we did as well as we could, I just think we could have done better if we were given a little bit more time and flexibility to allocate resources.”

Other challenges at the local level that needed to be overcome often related to poor or inconsistent record keeping and local PHA capacity, such as reconciling who was on the lease and “right sizing” units to match household sizes. Both New York and San Francisco had to undertake significant efforts to identify off-lease residents in order to establish accurate household sizes. In San Francisco in particular, the lack of accurate data on existing tenants made the process of rehab and relocation more difficult. “We didn’t have good information about who was in which units, who was on lease, even verification of who is on lease. Is the person that comes in for the interview the actual person that’s on the lease? There’s no photo ID, the files were not complete, not good rent rolls, just total lack of information.” In addition, in some cases households were “over-housed” (for example, if children had left the household)—an issue the PHA had failed to address—leading to tenants feeling cheated when they were told they are being moved into a smaller unit upon conversion.

Finally, labor shortages and the challenges associated with getting the rehab done were also raised in interviews in some of the markets. In both Charlotte and San Francisco, for example, labor shortages in the construction industry have made completing RAD rehabs on time difficult. “We don’t have the apprentices coming up through the ranks like you used to, not a lot skilled labor to carry out the work. Recently on a project, framers were there up until lunchtime, somebody offered them a job at another site, paying \$1-\$2 an hour more. Someone you’ve been working with for six to eight months and when it comes time to do the work, they bail because they have more work than they know what to do with.” While not unique to RAD (and certainly not caused by the program itself), these insights raised the important point that conversions happen within the context of other factors influencing the real estate market, and that other macro-economic forces may influence the pace and success of RAD conversions in some markets.

#### *Implications for Local Housing Authorities*

Interviews also revealed that for many stakeholders, RAD conversion gave them an opportunity to confront inefficient or faulty processes, and to improve PHA operations. This raised another issue for respondents: while increased efficiency is a key benefit of RAD, it can lead to a loss of PHA jobs as certain functions are consolidated or streamlined. The extent to which this was raised as a concern varied across cities.

In some cities, RAD conversion changed very little at the PHA – for example, in Laurinburg, North Carolina, the small staff was re-organized as a result of natural staff turnover and retirements, and the public housing occupancy specialist moved to the Section 8 Department to process the RAD-PBV vouchers. However, in other cases property management responsibilities can shift to new owner or a third-party firm rather than being done by PHA staff, leading to a loss of employees at the agency. In the cities we studied, PHAs and city leaders worked to minimize job losses, but also acknowledged that this was a challenging aspect of conversion that needed to be addressed thoughtfully and in collaboration with staff and local unions. In El Paso, PHA leadership began an open discussion early in the process so that staff could find new placements and so that some of the positions would close naturally due to attrition. In San Francisco, the new developer teams committed to interviewing SFHA staff for their positions, and the city absorbed many of the laid off workers within other city departments.

Although in some cases RAD has led to very little institutional change at the local level—particularly in cases where the PHA continues to manage the property—in others, RAD substantially changes the role and responsibilities of the local housing authority (Stitt, 2017). A strong PHA presence can be critical for maintaining the mission of housing lower-income and vulnerable families, especially if other groups are not present to fill the void. A few respondents wondered how RAD would change the institutional support for affordable housing in places where historically the PHA had a strong and positive presence. In contrast, in cities like San Francisco, where the housing authority had been in receivership and in deep financial trouble for many years, most respondents agreed that the properties were in “better hands” with the redevelopment process being led by private developer teams. The SFHA “is just not functionally cut out to do property management or asset management. Delegating those roles to the private sector with appropriate protections for tenant rights and long-term public control is absolutely essential.” However, San Francisco has the advantage of a strong affordable housing development community and a Mayor’s Office of Housing staffed with extraordinary development and asset management experience. In addition, despite occasional bumps in the road, the various stakeholders in San Francisco worked together closely. “There’s been tremendous partnership between the city, the developers, the consultants, the contractors, inspectors, lawyers, HUD, the lenders and investors. We’re all marching down this road to get to the same goal. If the interests of these groups weren’t aligned, it would be a nightmare.” Several respondents also pointed to the political capital the city was bringing to the project, in addition to the financial resources, as elements of RAD’s success.

The issue of local capacity and political will is particularly important if RAD expands beyond the demonstration phase. As one respondent asserted, “you either have to have a Housing Authority with strong asset management and financing knowledge at least to be able to do

project vouchers well, or you have to have a city department that has enough clout to step in and set things right when a crisis arises. You have to have one of the two.” In cities without either, it will be difficult for RAD to be successful. In addition, research has shown that local outcomes related to public housing redevelopment (for example, HOPE VI and MTW) are deeply shaped by the constellation of local actors and their economic incentives, the history of political mobilization in the city, and the role of resident engagement (Vale, 2017). As RAD devolves more authority and decision-making to the local level, it is critical to monitor the program’s implementation to ensure that its goals of preserving public housing are being met.

## Conclusion

*At this juncture, it is hard to argue that the current public housing system affords more effective stewardship of these assets than RAD. Our lack of commitment to public housing has confined residents to substandard housing and contributed to the demolition of thousands of homes, and the displacement of countless more families, seniors and individuals with limited means. RAD could reverse that. – RAD Policymaker*

The chronic underfunding of public housing—both on the capital and on the operations side—is one of the great public policy failures of the 20<sup>th</sup> century. More than 20 percent of the public housing stock has been lost due to the lack of capital investments, and across the country many households are living in unsafe and unhealthy units. RAD was designed to address this challenge, and to date, the program has been successful in achieving its primary goal. RAD leverages public dollars very effectively—bringing in 19 private for every 1 public dollar—which means that PHAs can address long-standing capital needs and put these properties on a stronger financial footing. Preservation can also be significantly cheaper than building new units, and by preserving these units, localities retain and leverage existing public investments. In addition, RAD includes important provisions against the loss of units and tenants’ rights, which for the most part are as strong as those that apply to public housing.

However, RAD is not a panacea, and the findings presented here speak to a number of ways that RAD could be made stronger.

First, Congress’ insistence on keeping RAD revenue-neutral will limit its effectiveness – in certain markets the deals are just not financially viable. This means that in many places, we will continue to see a loss of the public housing stock. The RAD model—where public subsidy goes further by leveraging private dollars—will be feasible in a greater range of contexts with more Congressional funding. Clearly, appropriating more money to allow HUD to increase the RAD rents is one way to achieve this. But, as the experiences of El Paso,



San Francisco, and New York show, it is possible to fill the financing gap in other ways as well. Other ideas that could be explored include:

- **Creating greater synergies synergy between LIHTC and the RAD program.** For example, there could be a national set aside of 9% LIHTC for RAD projects that demonstrate the need for additional rehabilitation capital. Another option could be to increase the basis boost under LIHTC for RAD projects. To ensure that these provisions would not take away resources for non-RAD deals, these changes could be linked to new and/or increased funding for the LIHTC program.
- **Incorporating RAD in preservation strategies under housing finance reform.** As part of reforms to the housing finance system—specifically the role of Fannie Mae and Freddie Mac—affordable housing provisions could give priority to RAD projects that help preserve the public housing stock. Below market loans, for example, could help some deals pencil, as could a specific RAD allocation of funds generated through the Housing Trust Fund.
- **Better integrating RAD into the larger national conversation on how best to preserve affordable housing.** In general, public housing has been seen as separate from other innovations in affordable housing, where strategies and funding for new construction have been emphasized over rehabilitation and preservation. However, preservation is increasingly being seen as an important strategy, leading to questions about what should be preserved and where, as well as how to finance these projects. The severity of the nation’s affordable housing crisis means that there is not just one solution: investments are needed in both demand and supply side programs, and restoring and preserving public housing units needs to be seen as an integral part of building a ladder of affordable housing options.

Second, HUD should continue to seek feedback from stakeholders on process improvements and commit to streamlining decision-making across its departments. At a minimum, HUD should work with PHAs implementing RAD to identify and “institutionalize” approaches that are effective in making the program work. As one stakeholder suggested, “If the specific learnings were institutionalized within HUD that would be good, because whoever was making the decision knew they had 5 options to work with and that these could be managed in a way that doesn’t increase risk. As more and more RAD transactions came in HUD staff would know about those options and wouldn’t throw up unnecessary red flags. They could utilize that in the future.” One possibility would be to consolidate control over decisions related to RAD conversion—including Fair Housing and Section 18—in HUD’s Recapitalization Office. This office has the staff expertise related to the preservation and financial viability of federally assisted affordable housing, and would be a natural home for all decisions related to RAD. In addition, institutionalizing RAD program options that have been proven to work

would free up HUD staff time to better monitor and evaluate local implementation after closing a deal.

Third, before a RAD conversion is approved, there should be greater attention paid to the capacity and experience of the development, management, and ownership teams undertaking RAD. Given how important local capacity and commitment to affordable housing is to the success of RAD, investing in capacity-building and ensuring that the partners have the skills, knowledge, and mission to undertake long-term management of these properties is critical to long-term success. With RAD, this focus tends to only happen when the project is coupled with LIHTC and there is lender and/or investor oversight and risk assessment. A greater attention to the capacity of local actors could happen concurrently with approval of the financing plan, before the RAD deal is closed.

Additional funding for capacity building at the local level, as well as supporting efforts to share RAD best practices across public housing agencies, is also warranted. Banks, who (under CRA) play a significant role in helping to finance RAD deals, can also couple their investments with smaller pockets of grant funding to local organizations to support this type of capacity building and education (including of residents), as Bank of America did in San Francisco. PHAs should also share best practices for relocation, education, and resident engagement, helping to create a stronger institutional foundation for tenant rights and protections.

Finally, the impact of RAD on tenants is critical to keep in mind. RAD implementation is likely to vary across cities, and there have been reports of inconsistencies in tenant education, engagement, and protections as part of the conversion process. Monitoring implementation is critical to ensure that vulnerable families are not displaced as a result of RAD. In addition, as more residents become eligible for choice mobility vouchers, it will be important to evaluate residents' ability to use those vouchers effectively. Constraints on the Section 8 program may limit the effectiveness of RAD in this regard. In the past, HUD has done a poor job of monitoring the impact of its public housing policy shifts on tenants' well-being, and data limitations have made it difficult to document the relationship between improvements to the public housing stock and improvements in people's lives. Investing in data and research on the impact of RAD on tenants can help to ensure greater accountability at the local level, as well as build evidence for the importance of high-quality affordable housing in promoting resident well-being.

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