

## **Public Comments and CMHA Response**

The following is a summary of the comments that were received verbally and/or in writing during the public review process for the FY2009 PHA Plan, including the CMHA response. In addition to the Public Hearing held on September 17, 2008, CMHA also held meetings with our community partners to discuss changes to the Housing Choice Voucher Program Administrative Plan, the Public Housing Admissions and Continued Occupancy Policy and the PHA Plan. Many of the written comments were submitted by Peter Iskin of the Legal Aid Society, some on the behalf of the Cleveland Tenant's Organization (CTO), who we would again like to acknowledge for his thorough review and thoughtful comments on these PHA Plan documents. Other written comments were received from Brian Davis of the Northeast Ohio Coalition for the Homeless (NEOCH) and the Homeless Congress. Laurie Rokakis of Congressman Kucinich's office also voiced support for some of the concerns raised by the Legal Aid Society and NEOCH.

The comments, followed by a CMHA response, are compiled for each of the following documents by topic and listed sequentially by section.

- A. Public Housing Agency Plan for Fiscal Year 2009 ("PHA Plan");
- B. Changes to the Admissions and Continued Occupancy Policy ("ACOP");
- C. Changes to the Housing Choice Voucher Program Administrative Plan; and
- D. Other Comments

### **A. Public Housing Agency Plan (PHA Plan) for FY2009**

#### **1. Section 4.B.(2) – Minimum Rent**

**Comment a:** CMHA proposes to change its Housing Choice Voucher Program minimum rent, from its current amount of \$0 to a proposed amount of \$50. CMHA should rescind this proposal and retain its minimum rent of \$0, for at least three reasons. First, a minimum rent of \$50 is an unfair policy in that it requires families that have minimal or no income to pay an amount of rent that they cannot afford to pay. Second, a minimum rent of \$50 is an unfair policy in that it creates a rent formula that requires the families that have the least income (and often no income) to pay a higher percentage of their income for rent than the relatively higher income families. Third, the mandatory hardship exceptions to the minimum rent (see 24 C.F.R. § 5.630) will likely impose a significant administrative burden on CMHA, provided CMHA complies with its obligation to notify families of these exceptions and, where appropriate, grants them. If CMHA refuses to rescind this proposal, it should at least modify it so as to create a minimum rent of \$25 (instead of \$50). This would lessen the inequity and hardship that it imposes and make it consistent with the CMHA public housing minimum rent. [Legal Aid Society]

**Comment b: Set the Minimum Rent at \$0 for both programs.** We cannot believe that after only one year of having a \$0 minimum rent in the Voucher Program caused any issues within the authority. We would ask that both programs return to a rent structure based on what a person

can afford. With the minimum rent, many of our clients are still eligible for \$0 rent, but, in order to receive it, they must be informed of and then go through the hurdles of applying for a minimum rent exemption, and CMHA's implementation of the exemption rule has been uneven. Those between jobs or waiting for their disability should not be expected to find a way to pay rent of \$50 or \$25 (the current minimum rents). If you are going to put this burden on the tenant to file for a hardship exemption then we would prefer a \$100 minimum rent so that it is high enough that everyone eligible will in fact take that option. At this time, the agency benefits from those not going to the trouble of asking for an exemption that they deserve, because it is not worth the effort. [NEOCH]

**Comment c:** Minimum Rent should be \$0 for both programs. The rents for both programs should be based on what tenants can afford. Even though tenants will still be eligible for \$0 rent under the hardship exceptions, to access them they have to be informed of their existence and then go through a burdensome administrative process. Tenants who find themselves between jobs or waiting for disability payments to begin should not be expected to find a way to pay a minimum rent. Charging a minimum rate is unfair to persons with extremely low or no income, since they are thus charged a higher percentage of their income than other tenants. Finally, minimum rents and related hardship exceptions also increase the administrative burden on CMHA. [Homeless Congress]

**CMHA Response:** Due to under-funding of the Housing Choice Voucher Program (HCVP) by HUD, and CMHA's policy decision to maintain the size of the program, CMHA is reinstating the minimum rent requirement of \$50 for the HCVP in 2009. CMHA will also maintain the \$25 minimum rent for the Public Housing program in 2009. As relief from the minimum rent payment and in accordance with HUD requirements, CMHA offers protection from eviction through the hardship exemption.

## **2. Section 8. – Demolition/Disposition Plans**

**Comment a:** CMHA proposes to demolish a significant number of public housing dwelling units, without a specified plan for replacement units: 59 units at Cedar Extension; 61 units at Outhwaite; 50 units at Lakeview Terrace. Because of this community's severe shortage of public housing and project-based subsidized rental housing, CMHA should adopt a replacement housing policy for these demolition proposals. Consistent with its past practice, CMHA's replacement housing policy for these demolition proposals should commit CMHA to develop public housing and/or project-based voucher replacement family units on a one-for-one basis for 2-BRs or larger and on a one-for-three basis for 1-BRs. [Legal Aid Society]

**Comment b:** We believe that the Plan is missing information about the Replacement of units slated for Demolition: In addition to the pending demolition plan for 221 Garden Valley units and 61 Outhwaite units, the Plan calls for the additional demolition of 59 Cedar Extension units, 128 Garden Valley units, and 3-4 buildings at Lakeview Terrace. Meanwhile, CMHA is proposing new construction of only 81 units at Garden Valley and a possible, unspecified project at Outhwaite and/or Collinwood, Lee-Harvard, or East Cleveland. The Plan Summary makes the vague promise that CMHA "will continue to seek other development opportunities for creating

replacement housing.” NEOCH firmly believes that there should be one-to-one replacement of all demolished public housing units. With homelessness on the rise, CMHA should not demolish any unit of affordable subsidized housing without replacing those units or making a concrete plans to do so. [NEOCH]

**Comment c:** The Annual Plan Calls for the Demolition of Hundreds of Units without Replacement. In addition to the pending demolition plan for 221 Garden Valley units and 61 Outhwaite units, the Plan calls for the additional demolition of 59 Cedar Extension units, 128 Garden Valley units, and 3-4 buildings at Lakeview Terrace. Meanwhile, CMHA is proposing new construction of only 81 units at Garden Valley and a possible, unspecified project at Outhwaite and/or Collinwood, Lee-Harvard, or East Cleveland. The Plan Summary makes the vague promise that CMHA “will continue to seek other development opportunities for creating replacement housing.” The Congress firmly believes that there should be one-to-one replacement of all demolished public housing units. With thousands of people on CMHA’s waiting list and with homelessness on the rise, CMHA should not demolish any units of affordable subsidized housing without replacing every one of those units or making concrete plans to do so. [Homeless Congress]

**Comment d:** First, the plan lists hundreds of units that are already pending demolition at Garden Valley and Outhwaite, and then proposes to demolish an additional 59 units at Cedar Extension, 128 units at Garden Valley, and 3-4 buildings at Lakeview Terrace. I read through the rest of the plan several times to find out how all of those units are going to be replaced, but only saw mention of 81 new units at Garden Valley, which would not come close to replacing the units being demolished. Although the plan mentions a possible project at Outhwaite and/or Collinwood, Lee-Harvard, or East Cleveland, this mention is was so vague and non-specific in terms of number of units, location, or dates of construction that it was clear CMHA does not have any realistic intention of completing such a project in 2009. The promise to “continue to seek other development opportunities for creating replacement housing” is nowhere near sufficient. [Traci Ext]

**CMHA Response:** CMHA has committed to replacing 1029 of the 1436 public housing units that have been demolished since 1995, of which 778 have been completed, 142 are in progress, and 109 are being planned. CMHA does not undertake demolition without a replacement plan in place. At Garden Valley, the plan is to demolish all 628 units in several phases and replace them with 350 units on-site. To meet the replacement plan of 536 units for Garden Valley, the balance will consist of project-based vouchers. CMHA has a responsibility to provide safe decent housing, and without sufficient capital funding, this requires some tough decisions about the selective demolition of deteriorating buildings at some of our larger family estates, which is why the demolition of selected buildings at Outhwaite, Cedar Extension, and Lakeview Terrace are being proposed. CMHA is also committed to replacing as many of these units as possible, but plans take time to develop and are contingent on limited funding resources and land that is not readily available since we cannot and will not rebuild all the units on-site. A paragraph has been added to this section of the PHA Plan to explain our replacement plans. The activity description for Lakeview Terrace was also changed to specify that 4 buildings (57 units) are being proposed for demolition.

### 3. Section 9 – Designation of Public Housing for the Elderly

**Comment a:** CMHA proposes to develop a new building at Garden Valley, comprised of 50-75 public housing units, and to designate those units elderly only. CMHA proposes to develop 40 to 50 new public housing units in Collinwood, Lee-Harvard, or East Cleveland and to designate those units elderly only. Without these proposed elderly only designations, CMHA already has 2,510 public housing units designated elderly only. This constitutes nearly 50% of CMHA’s total number of efficiency and 1-BR public housing units. The determination on whether CMHA’s elderly only designation proposals are reasonable turns primarily on the answer to two questions. First, what is this community’s need for additional subsidized housing for elderly only? Second, if CMHA designates additional public housing units as elderly only, what is the impact of that policy on this community’s housing needs for extremely low income non-elderly persons (including extremely low income non-elderly persons with a disability)? It appears that this community does not have a severe shortage of subsidized housing for elderly persons. In addition to the 2,510 CMHA public housing units designated elderly only, this community has a large number of project-based subsidized housing units for elderly persons. As a result, CTO’s experience is that, in this community, when an elderly person seeks subsidized housing, the elderly person typically secures a subsidized dwelling unit within two or three months. An impact of the elderly only designations for efficiency and 1-BR public housing units is, of course, a reduction in the number of public housing units that are available for non-elderly persons who have a disability and reside in a single-person household (“non-elderly disabled single-persons”). It appears that this community does have a severe shortage of subsidized rental housing for non-elderly disabled single-persons (as well as for non-disabled non-elderly single-persons). Before CMHA adopts an elderly only designation for any additional public housing units, including those proposed for such designation in the Annual Plan for FY 2009:

- CMHA should assess (or re-assess) the extent of this community’s shortage of affordable housing for extremely low income non-elderly disabled single-persons. In performing this assessment (or re-assessment), CMHA should work with the wide-range of disability and fair housing groups that exist in this community.
- CMHA should assess (or re-assess) the extent of this community’s shortage of affordable housing for extremely low income elderly persons.
- CMHA should assess (or re-assess) the comparative needs of these two segments of the community’s population and, based thereon, determine the appropriate number of CMHA public housing units that should be designated elderly only and thus made unavailable to non-elderly disabled single-persons.
- CMHA should determine, and set forth in its Annual Plan, the initiatives that it will undertake to offset the loss of public housing dwelling units for non-elderly disabled single-persons, if CMHA adopts an elderly only designation for any additional public housing units.

CMHA should adopt an elderly only designation for additional public housing units only if, and to the extent that, it is consistent with the comparative housing needs, in this community, of extremely low income elderly persons, extremely low income non-elderly disabled single-persons, and other extremely low income persons. [Legal Aid Society]

**Comment b:** I am especially disturbed by the expansion of the number of senior housing buildings in our community. We all know those over 50 years of age are easier to serve, but we do not need a housing authority to serve our easiest to help. We need CMHA to lead in

providing housing to the hardest to serve. Currently, 26% of your total public housing inventory is off limits to the major portion of our community in need. To expand the number of units off limits to single adults struggling to find stability is against the City's Consolidated Plan. We do not need anymore senior housing in this community. We need CMHA to step up to put forward our plan to empty the shelters and not empty the nursing homes. [NEOCH]

**Comment c:** We renew our opposition to any expansion of the senior only buildings contained in the plan. CMHA already limits 2,510 units to a select population. There are very few seniors or near-seniors on the waiting list. There is a short wait in the community for senior housing with most of the vacancies in Cuyahoga County in senior or near senior properties. This is a betrayal of one of the poorest communities in America to replace units and then allow only seniors back into these properties. CMHA is not acting as a good partner for the shelters, homeless people, and the anti poverty groups in this community by serving a population that is not in need. We ask that CMHA get back into the business of serving homeless people who happen to be under 50 years of age. At this point, the younger population wait 4 to 5 years to find a place to live. We do not believe that this further designation of senior housing is consistent with the City of Cleveland's Consolidated Plan. [NEOCH]

**Comment d:** The Replacement Units in the Plan Expand Senior-Only Housing, which Does Not Serve 98% of the People Waiting for Housing. This year's plan calls for new senior and near-senior building designations for Garden Valley and the unspecified project at Collinwood, Lee-Harvard, or East Cleveland. It thus appears that the main replacement units for demolished public housing are to be exclusively designated for senior residents, even while 6,000 non-seniors are waiting for housing. CMHA already has 2,510 units designated for the near-elderly, and only 2% of persons on the public housing waiting list are elderly. CMHA's plan is not designed to reach the people in our area in most need of housing. As your website says, CMHA's purpose is to provide eligible low-income persons with good, safe, affordable housing. You are not fulfilling the mission of your agency, and you continue to leave too much burden on local shelters, by continuing to focus on the senior population that is already well-served by CMHA's current stock of senior-only housing, at the expense of the many other people in need. We are opposed to any further expansion of senior-only housing. [Homeless Congress]

**Comment e:** CMHA's website says only 2% of people on the public housing waiting list are elderly, which means that this plan fails to serve the other 98%. Given the numbers listed by CMHA as being on the current waiting list that means more than 6,000 non-senior families are waiting for housing, yet CMHA is decreasing the number of units available to them and focusing only on the 135 elderly families on the list. This is particularly distressing given the current state of housing in Northeast Ohio, where the foreclosure rate has exploded and where the numbers of homeless families and children are on the rise. [Traci Ext]

**CMHA Response:** It is part of the current CMHA development strategy to build small senior buildings as part of the redevelopment of our larger family properties so that aging families can remain in their neighborhood and have a place to live that better matches their housing needs. Despite the designation of these properties, the needs of the non-elderly and disabled have not been ignored, as CMHA has served hundreds of individuals through homeless and transitional housing programs, such as the commitment of over 1200 vouchers to the Gateway Program. In

addition, CMHA has taken 115 high-rise public housing units offline to provide housing for three different transitional housing programs. CMHA did remove the designation of a proposed new building at Outhwaite, and will be bringing a 34-unit apartment building of 1-bedroom units on line as part of the Riverview HOPE VI replacement housing plan that will not be designated. CMHA also acquired an 8-unit apartment building of 1-bedroom units that is not designated, and is seeking other small apartment buildings as replacement units. While the number of seniors on the CMHA waiting list has never been a high proportion of the overall waiting list, there has been enough demand to have maintained around 1800 senior households for the past several years. When combined with almost 1600 near-elderly (50 to 61) households living in our high-rise buildings, which is the next priority for the elderly designated buildings, CMHA believes that there are more than enough applicable households to justify the designation of these 2510 units (about 25% of the public housing inventory), and that it does fulfill a need within the community.

## **B. Admissions and Continued Occupancy Policy (ACOP)**

### **1. Chapter 2, § 2.16 – Admission Rules on Criminal Activity**

**Comment a:** All of the recommendations of the Re-Entry Task Force should be adopted. Over the last year two years, advocates have worked to reduce some of the barriers to housing for those coming out of incarceration. We did not see much attention to these recommendations in the plan. We ask that CMHA fully adopt those recommendations to allow those who have paid their debt to get on with their life with the fewest barriers as possible, and assure that all staff are aware of these changes. [NEOCH]

**Comment b:** The Plan does not fully address the Recommendations of the Re-Entry Task Force. The Plan does not seem to include all of the recommendations that have been made by advocates to reduce some of the barriers to housing for persons coming out of incarceration. The Congress requests that CMHA fully adopt the Re-Entry Task Force recommendations to facilitate the transition to housing for these individuals in great need who have already paid their debt to society for their past crimes. {Homeless Congress]

**CMHA Response:** During 2007, CMHA met several times with Task Force representatives that resulted in several changes to this section of the ACOP, which pertains to criminal admissions. While CMHA did not adopt all of the recommendations of the Task Force, modifications have been made to some of the language in this section that was either not clear or too restrictive. CMHA did meet with the Task Force again this year and discussed the possibility of some additional changes, as follows.

### **2. Chapter 2, § 2.16(G): refinement of two terms**

**Comment:** Change “child endangerment” to “child endangerment involving a sexual offense” and change “abduction” to “abduction (exclusive of custody cases).” [Legal Aid Society & Housing Workgroup of the Greater Cleveland Re-Entry Strategy]

**CMHA Response:** CMHA changed this section, which lists the various felony crimes that act as a bar to admission for a period of one year from completion of their sentence, to a table that also includes a reference to the appropriate crime in the Ohio Revised Code. This was done to provide more clarity as to what constitutes these crimes for both applicants and CMHA staff, so CMHA would prefer not to more narrowly define these two felony crimes and will leave them as stated.

### **3. Chapter 2, § 2.16(D): new sentence on excluding household members**

**Comment:** Add a new sentence at the end ACOP § 2.16(D), which would read:

“CMHA shall provide the applicant with this opportunity (and notice of this opportunity), unless CMHA determines, based on evidence reasonably related to individual attributes and behavior of the applicant, that the applicant would probably permit the excluded household member to reside unlawfully in the applicant’s CMHA rental unit.” [Legal Aid Society & Housing Workgroup of the Greater Cleveland Re-Entry Strategy]

**CMHA Response:** It is CMHA’s position that the existing statement: “CMHA may require an applicant to exclude a household member in order to be admitted if that household member has participated in or been culpable for criminal actions that warrant rejection,” adequately covers this concern.

### **4. Chapter 2, 2.16(H): new section to state the burden of proof that governs CMHA’s admission decisions under ACOP § 2.16**

**Comment:** Add ACOP § 2.16(H), which would read: “H. CMHA shall make its decisions, with respect to the criteria in this § 2.16, based on a preponderance of the evidence, with the burden of proof on CMHA to establish any grounds for denial of admission.” [Legal Aid Society & Housing Workgroup of the Greater Cleveland Re-Entry Strategy]

**CMHA Response:** It is CMHA’s position that these decisions are made in a serious and professional manner in accordance with HUD guidelines, making the addition of this proposed language unnecessary.

### **5. Chapter 2, § 2.16(I) – new section to identify the type of evidence that CMHA shall consider in making admission decisions under ACOP § 2.16**

**Comment:** Add ACOP § 2.16(I), which would read:

I. The unfavorable information that CMHA may consider, in determining whether to prohibit admission of an applicant under this § 2.16, shall be limited to the reliable, credible, and verified information that CMHA has received.

1. CMHA shall not rely upon unfavorable information that it receives from an anonymous or unknown source.

2. CMHA shall not rely upon unfavorable information that it receives from a second-hand source, unless the information is furnished by an agency or entity that maintains such information in the normal course of its business and the information is based on an original source who had first-hand knowledge, is reliable, and is credible.
3. CMHA shall not rely upon unfavorable information that it receives from an individual, in the form of an individual's statement (oral or written), unless the applicant has an opportunity to confront and cross-examine the individual during an informal hearing, before CMHA makes a final decision on the admission of the applicant." [Legal Aid Society & Housing Workgroup of the Greater Cleveland Re-Entry Strategy]

**CMHA Response:** Although this has been the practice of the Public Housing program, for the sake of transparency, CMHA will add the first paragraph of this proposed change.

#### **6. Chapter 4, § 4.02 E. 3.a.**

**Comment a:** We do not understand why an unborn child is not classified as a person. First, in a conservative political environment this is a bad idea. If a fundamentalist lawmaker received this plan they would be very angry that this seems to encourage abortion. Second, why would you want a new Mom to have to move? This policy seems to contradict with the moving policy, and does not seem to be equal to the policy with regard to live-in aids which attempts to find an apartment that "best meets their needs." [NEOCH]

**Comment b:** I was also concerned by the provisions in the plan that would not consider the unborn child of a pregnant resident in determining occupancy. It seems to represent the opposite of what our government has said it stands for in that it does not support the woman in keeping her child. And if the resident does keep her child, does this mean she has to move soon after birth to a different unit, which seems unhealthy and unnecessarily stressful. What if there is not a larger unit available at that time? [Traci Ext]

**CMHA Response:** Although in accordance with HUD guidance, this proposed change has been dropped.

#### **7. Chapter 5, § 5.02 B.2**

**Comment:** Maintenance and Housekeeping Classes should remain an option for CMHA not a requirement. We do not believe that these should be required for all tenants. We are not sure that they are universally convenient or accessible to all tenants including those with a disability or those who live in scattered sites. We do not want another milestone that a person must meet to maintain their tenancy. It seemed that allowing staff to assign the classes is a good compromise. Some of the tenants could teach these classes and should not be forced to go to a class that they do not need. [NEOCH]

**CMHA Response:** This proposed change will not be implemented. The language will remain as "may" be required.

## **8. Chapter 5, new § 5.05(I) – Examples of Unauthorized Occupants**

**Comment:** CMHA proposes to set forth five examples of categories of persons who constitute unauthorized occupants. The first and second examples – former CMHA residents who have been evicted and former household members – should be modified so as to state that these persons constitute unauthorized occupants only if they reside in the dwelling unit without authorization. The CMHA proposal seems to state that these persons are per se unauthorized occupants, whenever they visit a CMHA dwelling unit, irrespective of whether they reside in the dwelling unit. [Legal Aid Society]

**CMHA Response:** It appears there may have been some confusion caused by including this proposed section with the previous section concerning guests. These two sections will be separated but the language for each shall remain the same.

## **9. Chapter 11 – VAWA Lease Provisions and Notice to Tenants**

**Comment:** Under 42 U.S.C. §§ 1437d(l)(5) and (6), CMHA is required to make certain changes in its public housing dwelling lease to implement provisions of the Violence Against Women Act (“VAWA”). Two years ago, CMHA adopted revisions to the ACOP that implemented certain VAWA requirements. However, CMHA has not yet made the required VAWA revisions to the CMHA leases (ACOP Ch. 11). CMHA should make those required lease revisions and revise the ACOP Ch. 11 accordingly. [Legal Aid Society]

**CMHA Response:** Since it is such an onerous task to change and reissue the dwelling lease, CMHA will address these changes at a later time (next year if resources allow it) when the entire lease can be reviewed and revised. However, CMHA will implement a lease addendum when appropriate and in addition to incorporating VAWA language into the ACOP, CMHA sent the required notification to all public housing families and provides it to new admissions.

## **C. Housing Choice Voucher Program Administrative Plan**

### **1. Chapter 2, Page 2-1, Introduction – Programs Covered**

**Comment:** CMHA proposes to add a sentence that would state that the admission criteria in Chapter 2 of the Plan apply to “all programs.” CMHA should clarify the phrase “all programs” by expanding the phrase to read: “*all programs that are referenced in this Plan.*” [Legal Aid Society]

**CMHA Response:** CMHA agrees and will make this change.

## **2. Chapter 2, Page 2-3, Section B – Live-in Aide, Voucher Size**

**Comment:** CMHA proposes to reduce a participant’s voucher size, if the voucher size is based on a live-in aide and the participant is without an approved live-in aid for 60 days. CMHA proposes to make this reduction at the time of the participant’s next annual certification or next approved move, whichever occurs first. CMHA should revise this proposal so that it reads: *“When a family’s voucher size is based on a live-in aide, and the family is without an approved live-in aide at the time of an annual certification or an approved move, the PHA will reduce the voucher to the appropriate size at that time.”* This revision would remedy two problems in the CMHA proposal. First, a family may be without an approved live-in aide for 60 days, but thereafter secure an approved live-in aide before the next annual certification and before the next approved move. Second, in certain circumstances, CMHA is obligated to grant a family’s request for a live-in aide, irrespective of whether the family has been without a live-in aide for 60 days, and CMHA’s proposal may violate that obligation. [Legal Aid Society]

**CMHA Response:** CMHA agrees and will make this change.

## **3. Chapter 4, Page 4-3, Section C – Moderate Rehab Admissions to HCVP**

**Comment:** With respect to section 8 moderate rehabilitation families that are entitled to transfer to the HCVP, CMHA proposes to qualify its obligation to place these families on the HCVP waiting list. CMHA’s proposes a policy that would require CMHA to place these families on the HCVP waiting list only “[w]hen HCVP voucher is available.” CMHA should rescind this proposal for two reasons. First, whether a voucher is available for these families seems immaterial to whether CMHA should place them on the HCVP waiting list. By definition, families are placed on a HCVP waiting list because HCVP vouchers are not then-available. Second, CMHA’s proposed policy seems to be inconsistent with CMHA’s obligations under 24 C.F.R. § 882.514(e). [Legal Aid Society]

**CMHA Response:** CMHA agrees and will not make this change.

## **4. Chapter 6, Page 6-4, Section C – Minimum Rent of \$50**

**Comment:** CMHA proposes to change its HCVP minimum rent, from its current amount of \$0 to a proposed amount of \$50. CMHA should rescind this proposal and retain its minimum rent of \$0, for at least three reasons. First, a minimum rent of \$50 is an unfair policy in that it requires families that have minimal or no income to pay an amount of rent that they cannot afford to pay. Second, a minimum rent of \$50 is an unfair policy in that it creates a rent formula that requires the families that have the least income (and often no income) to pay a higher percentage of their income for rent than the relatively higher income families. Third, the mandatory hardship exceptions to the minimum rent (see 24 C.F.R. § 5.630) will likely impose a significant administrative burden on CMHA, provided CMHA complies with its obligation to notify families of these exceptions and, where appropriate, grants them. [Legal Aid Society]

**CMHA Response:** CMHA disagrees. Due to budget constraints it is necessary for CMHA to reinstate a minimum rent of \$50.00. Families, according to the Regulations, are still permitted to an appeal for an exemption.

## **5. Chapter 6, Page 6-10, Section J – Removal of Spouse from Family Unit**

**Comment:** The Plan provides that, in order to remove a spouse from the family unit, the family must furnish CMHA with (i) the pertinent pages of a divorce decree or separation papers or (ii) an affidavit confirming the removal of the spouse from the family unit. It appears that CMHA’s practice (at least in some cases) is (i) to inform the remaining spouse that she/he must file a legal separation in order to remove the departed spouse from the family unit and (ii) not to inform the remaining spouse of the alternative option (*i.e.*, the affidavit). To remedy this problem, CMHA should revise the Plan so that it states that CMHA shall inform the family of both permissible methods for removing a spouse from the family unit, whenever a family informs CMHA that it seeks to remove a spouse from the family unit. Specifically, CMHA should insert a new sentence in Chapter 6, Paragraph J that reads: “When a family informs CMHA that it seeks to remove a spouse from the family unit, CMHA shall inform the family of these two alternative methods for removing the spouse from the family unit.” [Legal Aid Society]

**CMHA Response:** CMHA will change the plan to accept either the pertinent pages of the divorce decree/separation papers *OR an affidavit of separation.*

## **6. Chapter 7, Page 7-12, Section H – Verification of Legal Identity**

**Comment:** CMHA proposes to require two documents – one document from each of two categories – to verify the legal identity of each adult family member. This proposed policy would replace an existing policy that permits an adult family member to verify legal identity with one document from among a list of specified documents. Why has CMHA proposed this revision? Has HUD mandated this revision? If this proposed revision is not mandatory, CMHA should rescind it, unless a compelling reason exists for imposing the burden and cost of securing two documents (instead of one document). [Legal Aid Society]

**CMHA Response:** CMHA will still accept photo identification as a primary document to verify identity. When the primary document is not available two alternate documents from the secondary list will be required. The documents on the secondary list do not provide the same degree of certainty with regard to identity.

## **7. Chapter 7, Page 7-16, Section H – Verification of Social Security Number**

**Comment:** CMHA proposes to remove from the Plan several methods for verifying a social security number, which it now allows in lieu of a social security card. Why has CMHA proposed this revision? Has HUD mandated this revision? If this proposed revision is not

mandatory, CMHA should rescind it, unless a compelling reason exists for eliminating these alternative verification methods. [Legal Aid Society]

**CMHA Response:** Ohio no longer places social security numbers on the driver license so it can no longer be used to verify the social security number.

## **8. Chapter 7, Page 7-17, New Section J – Identity Theft Causing Misinformation**

**Comment:** CMHA proposes a provision that would permit CMHA to compute a tenant’s rent with misinformation caused by identity theft, if the family failed to report the identity theft “within 30 days of the original dispute.” CMHA should rescind this proposal for at least five reasons. First, identity theft often causes enormous problems for a family and, in addressing them, the family often is required to undertake numerous tasks. This may reasonably result in the family not informing CMHA of the identity theft until after the proposed 30-day period. Second, absent a verified change in household composition, household income, or any other factor directly relevant to the computation of the tenant’s rent, CMHA seems to be without authority to change the tenant’s rent. Third, while a tenant has an obligation to report such changes, identity theft is not a change in any of the relevant household circumstances and, therefore, seems not to trigger this obligation. Fourth, when CMHA receives information that suggests an unreported change in the relevant household circumstances, CMHA may require the family to assist CMHA in its effort to verify the relevant household circumstances. In the case of identity theft, this means to assist CMHA in its effort to verify that an identity theft has occurred. Fifth, it is unclear on what basis (if any) CMHA has authority to compute a tenant’s rent with misinformation caused by an identity theft, simply because the family failed to report the identity theft “within 30 days of the original dispute.” [Legal Aid Society]

**CMHA Response:** Families need to report that they are a victim of identity theft and provide the proof, so CMHA will change to: “Within 30 days of the re-examination or application”.

## **9. Chapter 9, Page 9-3, Section C – Lease Provisions on Snow Removal and Lawn Care**

**Comment:** CMHA proposes to revise its HCVP lease requirements for snow removal and lawn care. CMHA should revise these requirements, but its proposal to do so should be modified so that it is consistent with Ohio law. In particular, it should be modified to reflect the distinction between common areas and areas leased to a tenant for the tenant’s exclusive use. To accomplish this end, CMHA’s proposal should be modified to read: “For multi-unit structures (duplex and larger) where the driveway and/or lawn are shared by more than one dwelling unit, the landlord is required to maintain those common areas, which includes the snow removal and/or lawn care. For single family dwellings, and for multi-unit structures where the HCVP participant has exclusive use of the driveway and/or lawn, the lease must specify the responsible party for the snow removal and/or lawn care.” [Legal Aid Society]

**CMHA Response:** CMHA agrees and will make this change.

## **10. Chapter 12, Page 12-3 first paragraph**

**Comment:** Page 12-2-suggestion that families be informed in the appointment letter to call to reschedule the missed appointment. [Legal Aid Society]

**CMHA Response:** Families will be notified in the letter that they will be permitted to reschedule for a documented emergency if they call before the missed appointment.

## **11. Chapter 14, Page 14-1, Section A – Possession Required on Effective Date of Contract**

**Comment:** CMHA proposes a provision under which it would terminate HAP contracts whenever the family does not take possession (*i.e.*, secure the keys) on the effective date of the HAP contract. CMHA should revise this proposal in two respects. First, it should require that families take possession within a reasonable time, such as within five days, of the effective date of the HAP contract. If CMHA declines this suggestion, it should require that families take possession “on or before” (not “on”) the effective date of the HAP contract. Second, it should provide that the PHA “may” (not “will”) terminate the contract, so as to permit CMHA to exercise appropriate discretion. [Legal Aid Society]

**CMHA Response:** CMHA agrees and will make this change.

## **12. Chapter 14, Page 14-3, Section D – Notice of Termination of the HAP Contract by PHA**

**Comment:** The Plan provides that, when CMHA terminates the HAP contract, CMHA will provide the owner and family with written notice of the termination. It also provides that the HAP contract terminates at the end of the calendar month that follows the calendar month in which such notice has been given. CMHA implements this tenant notice requirement with a form notice (attached below), which provides the family with all of the relevant information, except the effective date of the HAP contract termination. The contract termination date is important information for the family. It may effect both the family’s future rental obligations and the family’s time period for moving with the HCVP subsidy. Therefore, CMHA should revise the Plan so that it states that CMHA shall provide the family with advance written notice of the HAP contract termination date. Specifically, CMHA should revise the subsection titled “Notice of Termination” so that it reads: “When the PHA terminates the HAP contract, the PHA will provide the owner and family with advance notice of the termination of the contract and the effective date of the termination. In these circumstances, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner and family.” CMHA should also revise the attached form tenant notice so that it includes the effective date of the HAP contract termination. [Legal Aid Society]

**CMHA Response:** CMHA agrees and will make this change.

### **13. Chapter 19, Page 19-2, Section B – Hearing in Person or by Phone**

**Comment:** CMHA proposes to permit CMHA to determine whether an informal hearing will be conducted by telephone or in-person, unless the family explicitly requests a hearing in-person. CMHA should rescind this proposal, and retain its current policy that authorizes a telephone hearing only if the family requests it. Generally, an in-person hearing is a significantly better forum than a telephone hearing for: presenting testimony, cross-examining witnesses, assessing credibility of witnesses, presenting documents, reviewing documents, and resolving matters in dispute. [Legal Aid Society]

**CMHA Response:** CMHA agrees and will not make this change.

### **14. Chapter 20, Page 20-8 Section E**

**Comment:** There was a concern that Homeownership education is needed more than once per year. [June Taylor]

**CMHA Response:** After discussion, the solution was to develop periodic homeownership mailings. However, this does not necessitate a change to the Plan.

## **D. Other Comments**

### **1. Income Re-determination Should Occur Once Per Year.**

**Comment:** We would like to see both public housing and the voucher program have similar rules so that tenants can keep additional resources until their annual re-determination if that increase is less than 25% of their total income in order to save funds for non-subsidized market rate housing. [NEOCH]

**CMHA Response:** The Housing Choice Voucher program requires tenants to report increased earnings that exceed \$100/month (\$1200 annually), and the Public Housing program requires tenants to report increased earnings that exceed \$2500, which seems to be the maximum amount acceptable to HUD under their new income verification system. This still allows most tenants the benefit of increased earnings until their next annual reexamination, and given that rents are capped at 30% of their income, those over these limits will still retain most of their additional income. Given that neither program is fully funded, the more that is collected in rent, the less subsidy is needed, which better enables CMHA to sustain these programs at their current size.

### **2. Assign a staff person from Public Housing/Housing Choice Voucher to be the liaison to the homeless service providers.**

**Comment:** It is critical that we free up space within the shelters quickly. Therefore, when a person's name or number is drawn for a public housing unit, the person should move quickly

into housing. We need one staff person that we can talk to in order to cut through the bureaucracy and free up the space in the shelters for other homeless people. [NEOCH]

**CMHA Response:** Unfortunately, current staffing levels and budget constraints do not permit the assignment of a specific person to this task. However, CMHA will continue to expedite the processing of applicants on a case-by-case basis when needed for specific clients, or for certain initiatives as we have done in the past.

### **3. General statements**

**Comment a:** We understand the importance of CMHA to our community, and want the agency to remain a strong and healthy organization housing very low income individuals. We thank you for putting all of this information on your website. As always, if there is any ability for the Coalition to assist with advocacy efforts to increase federal funding, we would be happy to partner with CMHA. [NEOCH]

**Comment b:** With the passage of the National Housing Trust Fund, CMHA will be a critical partner to finally beginning to build and repair affordable housing in Cleveland. [NEOCH]

**Comment c:** We are writing to voice our support of the CMHA Public Housing Agency Plan for 2009. The Ohio City Near West Development Corporation (OCNW) is the local community development corporation for the Ohio City neighborhood. Our organization supports and manages affordable housing and is home to many CMHA units such as Riverview and Lakeview estates. It is our understanding that there is some opposition to the plan relative to the designation of senior housing, minimal rent rates, and replacement units for potential demolition. Combining younger residents and seniors may idealistically be preferable but not necessarily practical. The minimum rents are nominal and there remains an option for zero rent. We understand that you are currently planning for additional replacement units incumbent on funding. We have complete faith in the management of CMHA and your proposed plan. You have a solid record of service to the housing clients whom you so admirably serve. [OCNW]