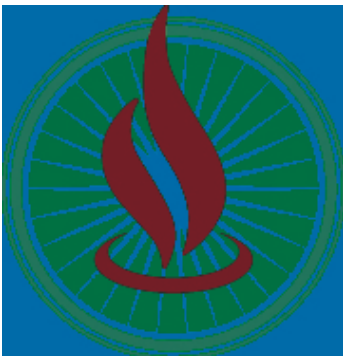


# **Furthering Fair Housing Choices for Voucher Tenants in Austin**

## **A Report for HousingWorks**

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By: The Community Development Clinic, University of Texas School of Law  
Katy Rosenberg, Clinic Student  
Luke Lowenfield, Clinic Student  
Heather K. Way, Clinic Director

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## **I. Introduction**

The Housing Choice Voucher Program is the nation's largest affordable housing program, serving more than 2.1 million low-income households each year. In Austin, more than 5,600 households are Housing Choice Voucher participants.

Even though the voucher program was created to assist low-income families secure decent housing in good neighborhoods, voucher tenants live "disproportionately in distressed neighborhoods," compared with other renters.<sup>1</sup> In Austin, more than half of voucher holders live in high-poverty census tracts. Families with Housing Choice Vouchers in Austin live predominantly in a crescent running east from southeastern Austin to northeastern Austin, while the City's higher opportunity areas are by and large located west of I-35.<sup>2</sup>

The prospects for voucher holders who live in distressed, high-poverty neighborhoods can be grim as they face higher crime, isolation from economic opportunities, and low-performing schools. Among other impediments, their children are less likely to succeed academically and more likely to drop out of school, while the female heads of households are more likely to suffer from mental distress and decreased physical health.<sup>3</sup> These disparities in turn undermine the overall health of a community.

Under federal law, states, counties, and cities are obligated to break down these segregated and disparate housing opportunities. Federal grant programs and the Fair Housing Act require these governmental entities, including local housing authorities, to affirmatively further fair housing with the administration of housing programs. As part of this obligation, these governmental entities must proactively provide opportunities for voucher holders and other government housing recipients to live outside of minority- and poverty-concentrated areas. In the past year, these fair housing obligations have received heightened attention in the courts and in the Obama Administration.

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<sup>1</sup> Rolf Pendall, "Why Voucher and Certificate Users Live in Distressed Neighborhoods," *Housing Policy Debate*, 11(4) (2000), p 905.

<sup>2</sup> John A. Powell, et al, "The Geography of Opportunity: Austin Region," p 3.

<sup>3</sup> Margery Austin Turner & Dolores Acevedo-Garcia, "The Benefits of Housing Mobility: a Review of the Research Evidence," in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 9, 11-14; Florence Wagman Roisman, "Keeping the Promise: Ending Racial Discrimination and Segregation in Federally Financed Housing," *Howard L.J* 48:913 (Spring 2005), p 924-6; Margery Austin Turner & Lynette A. Rawlings, *Overcoming Concentrated Poverty and Isolation: Lessons from Three HUD Demonstration Initiatives* (Urban Institute, July 2005), p 5; Philip Tegeler, "Connecting Families to Opportunity: The Next Generation of Housing Mobility Policy," in *All Things Being Equal: Instigating Opportunity in an Inequitable Time*, eds: Brian Smedley, et al. (2007), p 79.

The main purpose of this report is to examine best practices that have been implemented around the country to further fair housing opportunities for families with Housing Choice Vouchers. The report first provides an overview of the Housing Choice Voucher program, followed by the benefits of promoting desegregated housing for voucher tenants, along with a summary of how the program is administered in Austin by the city and the two area housing authorities. The next section of the report explores the barriers that stand in the way to creating fair housing choices for voucher tenants.

The next section, the heart of the report, explores three core areas of best practices that could be adopted locally to further fair housing opportunities for voucher tenants in Austin. This section includes case studies for three cities (Dallas, Chicago, and Baltimore) with the most highly regarded voucher “mobility” programs—extensive programs that proactively seek to secure desegregated housing choices for tenants in high opportunity neighborhoods. In the final section of the report, we offer a set of policy proposals for Austin.

To fulfill the city’s and county’s obligations to affirmatively further fair housing, much more action is needed locally (and on many fronts) to undo segregated housing patterns and to expand the ability of voucher holders to live in high opportunity neighborhoods—with access to good schools, safe streets and parks, and jobs. We hope this report helps chart a course for providing these enhanced opportunities.

## **II. Background on the Housing Choice Voucher Program**

### **A. What is the Housing Choice Voucher Program?**

The Housing Choice Voucher Program (HC Voucher Program), commonly referred to as Section 8, is the federal government's largest housing assistance program for low-income households, serving close to 2 million households nationwide. The program assists very low-income families, the elderly, and persons with disabilities afford decent and sanitary housing in the private rental market.<sup>4</sup> A variation of this tenant-based subsidy program was first created as part of the U.S. Housing and Community Development Act of 1974.

In the HC Voucher Program, voucher tenants choose their own housing, and the local public housing authority (PHA) pays rental subsidies directly to the landlords on behalf of the families. Voucher tenants pay 30 to 40% of their adjusted gross household income on rent and utilities (based on a utility allowance adopted by the PHA), and the PHA pays the landlord the remaining amount. After the first year of tenancy, a voucher holder can pay more than 40% of household income if the landlord increases the rent and the family wishes to remain in the unit.<sup>5</sup>

The U.S. Department of Housing and Urban Development establishes a rent ceiling, referred to as the Fair Market Rent (FMR), for units leased under the HC Voucher Program. These FMRs vary depending upon the region and are updated annually. Each local PHA, through its annual Administrative Plan, then sets its own rent ceiling (referred to as the voucher payment standard) at 90% to 110% of the FMR for the region. In areas with high rents, the PHA may appeal to HUD for approval of an exception payment standard for up to 120% of the FMR.<sup>6</sup> A voucher tenant can lease a particular unit only if the monthly rent and utility allowance do not exceed the local PHA payment standard, which is broken down by bedroom size.

For example, if the combined rent and utility allowance for a two-bedroom apartment is \$950, the family's monthly income is \$1500 (30% = \$500), and the voucher payment standard for a two-bedroom is at 100% FMR, or \$912, the Housing Authority will pay the

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<sup>4</sup> U.S. Department of Housing and Urban Development, "Housing Choice Vouchers Fact Sheet," available at, [http://portal.hud.gov/portal/page/portal/HUD/topics/housing\\_choice\\_voucher\\_program\\_section\\_8](http://portal.hud.gov/portal/page/portal/HUD/topics/housing_choice_voucher_program_section_8).

<sup>5</sup> 24 CFR § 982.508 (2009); U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 6:6, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

<sup>6</sup> 24 CFR § 982.503 (2009); U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), Chapter 7, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

landlord \$412 a month (\$912 minus \$500), and the family will pay \$538 (\$950 minus \$412), or 36% of the family's income. If a voucher tenant finds an apartment in which the tenant's payment towards the rent and utility allowance would exceed 40% of the family's income, the family can try to negotiate with the landlord to lower the rent on the unit. Otherwise, the family is ineligible to move into the unit.

An important goal of the Housing Choice Voucher Program is to provide opportunities for low-income families to obtain rental housing outside areas of poverty or minority concentration. The local PHA is responsible for informing families about the availability and benefits of mobility opportunities and for improving access to such housing opportunities.<sup>7</sup>

## **B. Voucher Eligibility**

A household must meet several qualifications in order to be eligible for a HC Voucher, including the following:

1. **Family definition.** Only applicants who meet a local PHA's definition of "family" are eligible. The PHA is responsible for defining "family" as part of its annual administrative plan, although the definition is subject to approval by HUD and must fall within a set of HUD guidelines.<sup>8</sup> The latitude given to PHAs allows PHAs to fit their administration of the program to their communities' needs by, for example, allowing families to consist of unrelated persons living together.
2. **Income limits.** To be eligible for a voucher, a family must make no more than 50% of the area median income (AMI), although there are several exceptions when a family can make up to 80% of the AMI: (1) the family has been continuously assisted under the public housing or Section 8 voucher programs; (2) the family is a non-purchasing household in one of HUD's homeownership programs, such as HOPE 1; or (3) the family has been displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract. In addition to these income limits, each PHA must ensure that 75% of

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<sup>7</sup> U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 2:1, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

<sup>8</sup> U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 5:1 to 5:2, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

its admissions into the voucher program each year are families with incomes at or below 30% AMI.<sup>9</sup>

3. **Citizenship status.** An applicant household will be eligible for a voucher only if at least one member of the household is a U.S. citizen or an eligible alien.<sup>10</sup>
4. **Criminal activity.** The PHA may deny voucher assistance if any member of the family has committed, within a reasonable time period prior to admission, drug-related criminal activity, violent criminal activity, or other criminal activity related to the disruption of the health, safety, and peaceful enjoyment of the premises.<sup>11</sup> Under federal law, persons evicted from public housing or any Section 8 program for drug-related or violent criminal activity are automatically ineligible for assistance for at least three years from the date of the eviction, although there is a discretionary exception in the regulations when the person has successfully completed a supervised drug rehabilitation program.<sup>12</sup>

In addition to these regulations, the PHA may establish a system of local preferences based on local housing needs and priorities, as determined by the PHA in its annual plan.<sup>13</sup>

### C. Program Administration

PHAs administering the HC Voucher Program have legal relationships with three parties when a unit is leased with a HC voucher: HUD, the landlord, and the family. HUD distributes funds received from Congress to local PHAs. The distributions to PHAs are determined by the program regulations<sup>14</sup> and Annual Contributions Contracts.<sup>15</sup> The Annual Contributions Contract specifies the term of the funding and the amounts HUD

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<sup>9</sup> U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 5:2 to 5:3, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

<sup>10</sup> Families that include members with eligible immigration status and other members who do not have eligible status are referred to as “mixed families” under federal regulations and are eligible for prorated assistance. U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 5:3 to 5:5, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

<sup>11</sup> 24 CFR § 982.553 (2009).

<sup>12</sup> 24 CFR § 982.553(a) (2009).

<sup>13</sup> 24 CFR § 982.207 (2009).

<sup>14</sup> 24 CFR § 982, Subpart C—Funding and PHA Application for Funding (2009).

<sup>15</sup> 24 CFR § 982, Subpart D—Annual Contributions Contract and PHA Administration of Program (2009).

will disburse to the PHA for housing assistance payments and the PHA administrative fee.

The local PHA issues vouchers to eligible applicants and informs the applicants about their rental opportunities and the program requirements. After receiving a voucher, a family has 60 days to find an apartment, townhouse, or single-family home for rent. The PHA may grant extensions at its discretion. Once a family finds a suitable unit and a landlord who is willing to lease the unit under the voucher program, the family submits two documents to the PHA: a request for tenancy approval and an unexecuted copy of the landlord lease. The PHA then conducts an inspection of the unit for compliance with federal Housing Quality Standards (HQS). A unit must pass inspection in order to qualify for rent under the program.<sup>16</sup>

The landlord's standard lease form is used, in addition to a HUD-prescribed tenancy addendum. To the extent there is conflict between the two documents, HUD's tenancy addendum prevails over the terms of the standard lease.<sup>17</sup> The local PHA also enters into an agreement with the landlord called the Housing Assistance Payments (HAP) contract.<sup>18</sup> The HAP contract includes the terms on which the PHA will pay the landlord. HUD requires this form to be used; the form cannot be modified.

The effective date of the first housing assistance payment can start as soon as the unit passes inspection, the HAP is signed, the lease is signed, and the tenant moves into the unit. The tenant is responsible for paying any security deposit.<sup>19</sup>

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<sup>16</sup> U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), Chapter 8, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/index.cfm>.

<sup>17</sup> Available at: <http://www.hud.gov/offices/adm/hudclips/forms/files/52641-a.pdf>.

<sup>18</sup> Form HUD-52641 is the HAP contract for the Housing Choice Voucher Program. This form may be accessed at <http://www.hud.gov/offices/adm/hudclips/forms/files/52641.pdf>.

<sup>19</sup> For a summary of the roles and responsibilities of the participants in the Housing Choice Voucher Program, see U.S. Dept. of Housing and Urban Development, *Housing Choice Voucher Program Guidebook (7420.10G)* (content current as of Apr. 21, 2010), 1:13 to 1:15, available at <http://www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/7420g01GUID.pdf>.



### **III. The Importance of Promoting Desegregated Housing for Voucher Tenants**

Assisting voucher tenants in accessing and retaining desegregated housing opportunities is important for two key reasons: (1) the wide-ranging benefits that living in high-opportunity, low-poverty communities can provide for voucher tenants and the community at large; and (2) federal fair housing law mandates.

#### **A. Benefits for Voucher Tenants**

Research from a series of studies has found wide-ranging benefits for voucher tenants who move from racially and economically segregated communities to high-opportunity, low-poverty communities.<sup>20</sup> Most of these studies have been conducted in the context of housing mobility programs adopted as the result of litigation or through the federal Moving to Opportunity for Fair Housing Demonstration Program.<sup>21</sup> In addition to finding that residents in these mobility programs have overall higher satisfaction with their housing,<sup>22</sup> these studies have found a broad range of additional benefits, including:

1. **Increase in mental and physical health:** Among the most substantial benefits for voucher tenants moving to higher opportunity areas are gains in mental and physical health for women and girls. Some of the studies found substantial reductions in adult obesity, along with reductions in psychological distress and depression, and increased feelings of calm and peacefulness.<sup>23</sup>
2. **Increase in educational opportunities:** Voucher tenants moving to areas with higher performing schools experience higher educational outcomes: Their children are less likely to drop out of high school, are more likely to be in a

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<sup>20</sup> Goering, et al., "What Have We Learned about Housing Mobility and Poverty Deconcentration?" in *Choosing a Better Life?: Evaluating the Moving to Opportunity Social Experiment*, eds: John Goering & Judith D. Fins (Urban Institute, 2003), p 32-33, 22-23 (table 1.5), 24-25 (table 1.6).

<sup>21</sup> For information on the Moving to Opportunity for Fair Housing Demonstration Program, see <http://portal.hud.gov/portal/page/portal/HUD/programdescription/mto>.

<sup>22</sup> Edward G. Goetz, *Clearing the Way: Deconcentrating the Poor in Urban America* (2003), p 76-78.

<sup>23</sup> John Goering, "The MTO Experiment," in *Geography of Opportunity* (2005), p 143; Margery Austin Turner & Dolores Acevedo-Garcia, "The Benefits of Housing Mobility: a Review of the Research Evidence" in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 16.

college track, and are more likely to attend college. Voucher tenants reported that teachers are more responsive, that their children are more motivated to perform well in school, and that they are more satisfied with their schools.<sup>24</sup>

3. **Reduction in crime and violence:** Voucher tenants moving to high opportunity areas are less likely to be a victim of crime. Voucher tenants in mobility programs also report that they perceive their families are safer, leading to a series of positive outcomes such as being more likely to let their children outdoors to play.<sup>25</sup>
4. **Employment gains:** Voucher tenants in the Chicago mobility program who moved to high-opportunity areas experienced increased employment and reduced dependency on welfare. Mobility studies from other cities have not found equivalent gains in this area.<sup>26</sup>

## B. Fair Housing Mandates

Federal fair housing law mandates that voucher programs be operated in a manner that furthers desegregated housing opportunities for the voucher tenants. Under the federal Fair Housing Act, federal housing and community development programs (such as Housing Choice Vouchers) must be administered in a manner that affirmatively furthers fair housing.<sup>27</sup> The Community Development Block Grant (CDBG) program contains a similar requirement: Under the Housing and Community Development Act of 1974, all government recipients of CDBG funding must certify that they will affirmatively further fair housing and undertake fair housing planning.<sup>28</sup>

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<sup>24</sup> John Goering, *Choosing a Better Life?: Evaluating the Moving to Opportunity Social Experiment*, eds: John Goering & Judith D. Fins (Urban Institute, 2003), p 383-4; Margery Austin Turner & Dolores Acevedo-Garcia, "The Benefits of Housing Mobility: a Review of the Research Evidence," in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 16-17.

<sup>25</sup> John Goering, The MTO Experiment, in *Geography of Opportunity* (2005), p 143; Margery Austin Turner & Dolores Acevedo-Garcia, "The Benefits of Housing Mobility: a Review of the Research Evidence," in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 15.

<sup>26</sup> John Goering, "The MTO Experiment," in *Geography of Opportunity* (2005), p 79-80; Goering, et al., "What Have We Learned about Housing Mobility and Poverty Deconcentration?" in *Choosing a Better Life?: Evaluating the Moving to Opportunity Social Experiment*, eds: John Goering & Judith D. Fins (Urban Institute, 2003), p 22-23 (table 1.5); 24-25 (table 1.6); 32-33.

<sup>27</sup> 42 U.S.C. §3608(e)(5) (2009).

<sup>28</sup> 42 U.S.C. §5204(b)(2) (2009).

As a condition of receiving CDBG funding, states, cities, and counties must: (1) conduct an analysis of impediments to fair housing choice; (2) take appropriate actions to overcome the impediments identified in the analysis (i.e., “affirmatively further fair housing”); and (3) maintain records reflecting the analysis and actions taken to further fair housing choice.<sup>29</sup> The obligation to affirmatively further fair housing extends to all housing and housing-related activities in the CDBG grantee’s jurisdiction, not just CDBG-funded housing programs.<sup>30</sup>

Expanding housing choices in desegregated communities is a centerpiece of these federal requirements. Under federal case law, the “affirmatively furthering” duty requires HUD to “do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases.”<sup>31</sup> Cities, counties, and states receiving CDBG funds must not only analyze the barriers to fair housing choices, but also must be proactive in creating desegregated housing opportunities for persons of color.<sup>32</sup> They must “[p]rovide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability and national origin.”<sup>33</sup>

Recently, the federal government has indicated it plans to enforce these obligations more aggressively. Last year, for example, a federal court found that Westchester County had “utterly failed” to meet its affirmatively furthering fair housing obligations

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<sup>29</sup> 24 C.F.R. §§570.601(a)(2) & 91.425(a)(1)(i) (2009). Additionally, the executive branch has issued a series of orders with similar requirements. See Executive Order 12892 (Jan. 17, 1994), §2-202; Executive Order 11063 (Nov. 20, 1962), §102; Executive Order 12259 (Dec. 31, 1980), §1-202.

<sup>30</sup> U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, *Fair Housing Planning Guide* (Mar. 1996), at 1:3, available at <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

<sup>31</sup> *NAACP v. Sec’y of Hous. & Urban Development*, 817 F.2d 149, 155 (1st Cir. 1987) (Breyer, J.); see also *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 209-10 (1972) (recognizing that the Fair Housing Act protects tenants from being denied the opportunity for interracial associations); *Otero v. N.Y. City Housing Auth.*, 484 F.2d 1122, 1134 (2d Cir. 1973) (“Action must be taken to fulfill, as much as possible, the goal of open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunities the Act was designed to combat.”); *Shannon v. HUD*, 577 F.2d 854 (3d Cir. 1978).

<sup>32</sup> “Federal Housing Programs: The Mandate to ‘Affirmatively Furthering Fair Housing,’” in *The Future of Fair Housing: Report of the National Commission on Fair Housing and Equal Opportunity* (Dec. 2008), available at <http://www.civilrights.org/publications/reports/fairhousing/affirmatively.html>. See generally Florence Wagman Roisman, “Affirmatively Furthering Fair Housing In Regional Housing Markets: The Baltimore Public Housing Desegregation Litigation,” 42 Wake Forest L. Rev. 333 (Summer 2007).

<sup>33</sup> U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, *Fair Housing Planning Guide* (Mar. 2006), at 1:3, available at <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

from 2000 to 2006, and that the county's certifications that it had affirmatively furthered fair housing were false or fraudulent.<sup>34</sup> As part of its failure to affirmatively further fair housing, the county had failed to take sufficient steps to identify and address racial concentration and other barriers to fair housing choice. The case eventually settled for \$62.5 million, and as part of the settlement agreement, the county agreed to take much more proactive steps in addressing residential racial segregation.<sup>35</sup>

The Obama Administration has likewise shown increased interest in furthering fair housing, which has led to an expectation that HUD will begin to enforce these federal regulations more actively. Calling the Westchester case "historic," the HUD Deputy Secretary of Housing and Urban Development has said that HUD plans to "hold people's feet to the fire" in regards to affirmatively furthering fair housing.<sup>36</sup>

Since the Westchester case, HUD has withheld \$1.7 billion in Community Development Block grant funds in Texas, following an administrative complaint that the state had failed to fulfill its affirmatively furthering fair housing requirements. HUD plans to release new regulations on governmental entities' obligations to affirmatively further fair housing in late 2010 or early 2011.

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<sup>34</sup> Opinion and Order, *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York*, No. 06 Civ. 2860 (SDNY Feb. 24, 2009).

<sup>35</sup> See Stipulation and Order of Settlement and Dismissal, *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York*, No. 06 Civ. 2860 (SDNY Aug. 10, 2009).

<sup>36</sup> Sam Roberts, "Westchester Adds Housing to Desegregation Pact," *New York Times* (Aug. 11, 2009).

## **IV. The Austin Context**

In Austin, there are two local government agencies that administer the Housing Choice Voucher Program: the Housing Authority of the City of Austin (HACA) and the Housing Authority of Travis County (HATC). In addition to administering the Housing Choice Voucher Program, HACA partners with the City of Austin to administer a smaller voucher program called the Tenant-Based Rental Assistance Program, which assists low-income families move from homelessness to self-sufficiency by providing rental subsidies and case management support services.

### **A. Housing Authority of the City of Austin**

HACA administers 5,638 total vouchers; 5,119 of these are Housing Choice Vouchers. Approximately two-thirds of voucher recipients are families with children, while one-third are disabled or elderly households.<sup>37</sup> Of HACA's Housing Choice Voucher residents, 58% are black, 31% are Hispanic, and 10% are non-Hispanic White. The average income of HACA's HC Voucher tenants is \$10,670; 695 receive Temporary Assistance to Needy Families.<sup>38</sup>

HACA manages an extensive waitlist for the Housing Choice Voucher Program. Due to the length of the list, HACA has not been accepting any new applications since July 2006, and does not expect to accept any new applications for several years. When HACA last opened its waitlist for new applications, it received more than 4,000 applications in just a few days.<sup>39</sup>

When selecting tenants to receive a voucher from the waitlist, HACA gives preferences to households displaced from HACA units closed as a result of rehabilitation work or other similar circumstances, elderly households, disabled households, and those displaced by natural disasters. Further, HACA has vouchers set aside for family unification.<sup>40</sup>

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<sup>37</sup> Interview with Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin (February 12, 2010).

<sup>38</sup> "HACA Resident Demographics," available at [http://www.hacanet.org/press/media\\_kit/demo.php](http://www.hacanet.org/press/media_kit/demo.php).

<sup>39</sup> Interview with Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin (February 12, 2010).

<sup>40</sup> *Id.*

HACA screens applicants for income eligibility, citizenship, and criminal history. Clients with a history of drug-related felonies or violent criminal activity are generally prohibited from entering the program. After HACA screens the applicants and finds that they meet all program requirements, the applicants must attend a three-hour orientation. This orientation generally covers the policies and procedures of HACA. HACA also provides the voucher clients with a packet of information regarding HUD inspection requirements and their fair housing rights.<sup>41</sup>

At the orientation, HACA provides the voucher clients with a packet that includes a chart containing information on certain resources available by zip code and census tracts in different parts of the city. HACA also includes on its website a listing of available rental units in Austin and indicates whether the units are in low-poverty areas.<sup>42</sup> In a search of the 84 three-bedroom units posted on April 23, 2010, no units were located west of IH-35 in the Austin urban core (the area between Ben White, IH-35, and MoPac). The listing included 12 three-bedroom units available for rent in Austin outside the urban core and in low-poverty census tracts (using 2000 census data).

HACA's landlord coordinator tells clients that they can look for housing in properties beyond those provided in the HACA list. The landlord coordinator is also available as a resource if a client finds a landlord hesitant to accept the voucher. Once the client finds a new home and the landlord has agreed to accept the voucher, HACA inspects the property for compliance with the federal Housing Quality Standards and signs a Housing Assistance Payments Contract with the landlord, which lasts the term of the one-year lease. After the tenant moves in, HACA is no longer involved (other than submitting monthly payments to the landlord) unless an issue arises with the tenancy.<sup>43</sup>

In Austin, voucher payments are set at 100% of the Fair Market Rent (FMR) for a home, which is based on the number of bedrooms and the family's size. The 2009 FMR was \$749 for a one-bedroom, \$912 for a two-bedroom, and \$1,228 for a three-bedroom.<sup>44</sup>

While HUD will allow a housing authority to offer vouchers up to 110% of the FMR, HACA's housing payment standard is capped at 100% of the FMR. In prior years, HACA has set the housing payment standard as high as 110% of the FMR.<sup>45</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> [http://www.hacanet.org/housing\\_choice\\_vouchers/tenants/available\\_units.php](http://www.hacanet.org/housing_choice_vouchers/tenants/available_units.php).

<sup>43</sup> Interview with Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin (February 12, 2010).

<sup>44</sup> <http://www.huduser.org/portal/datasets/fmr.html>.

<sup>45</sup> E-mail from Fred Fuchs, Attorney, Texas RioGrande Legal Aid.

HACA defends its lower voucher payment rate on the grounds that the rate allows the agency to serve a larger number of clients, which in turn allows the agency to receive a higher Section 8 Management Assessment Program (SEMAP) score from HUD. The SEMAP score is used by HUD to allocate voucher funding to individual housing authorities. HACA does not appear to give consideration to desegregated housing opportunities in setting its FMR. According to HACA's Administrative Plan for the Housing Choice Voucher Program, HACA states that when it reviews the voucher payment standards on an annual basis, it will give consideration to only the two following factors:

**Funding Availability:** HACA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served.

**Average rental amounts for unassisted units** – HACA will review the average rental amounts from HACA's available units list and Multiple Listing Service for leased units.<sup>46</sup>

HACA employs a landlord outreach coordinator who works to increase landlord participation in the voucher program. HACA hosts landlord education seminars in addition to mailing quarterly newsletters to all participating landlords. The coordinator provides landlords with an ear for any concerns they have about participation in the program. HACA has recently seen expanded willingness on the part of landlords to participate in the voucher program. HACA believes that this is due in part to its landlord outreach program, current economic conditions in the rental market, and positive word of mouth about the voucher program and working with HACA.<sup>47</sup> This is in line with the general reputation of HACA in the community: everyone we talked to about HACA in preparation for this report agreed that HACA is a well-managed and efficient agency.

HACA has had special success with its Self Sufficiency Program, which serves 150 families. Participating families sign a contract saying that they will spend five years working to achieve specific self sufficiency goals. Housing specialists meet with the families on a monthly basis to work with them on their goals and moving towards economic independence. As a family sees its income grow, the family's rent contribution stays the same, while the excess is put in an escrow account. The families in the Self Sufficiency Program benefit from an array of services including access to employment

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<sup>46</sup> Housing Authority of the City of Austin, *Housing Choice Voucher Program Administrative Plan 2010*, p 310.

<sup>47</sup> Interview with Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin (February 12, 2010).

agencies, local job training institutions, child care providers, education, and nonprofit service providers.<sup>48</sup>

HACA reports that it is making some gains in terms of the number of HC Voucher families with children living outside of high-poverty areas. In fiscal year 2005, 57.1% of voucher families with children lived in high-poverty census tracts, while in fiscal year 2008, of the total 4,903 voucher families with children, 54.3% lived in high-poverty census tracts, a reduction of 3%.<sup>49</sup> This reduction may in part be due to a large number of voucher tenants moving to available rental houses in Round Rock and Pflugerville. The recent mapping produced by graduate students with the School of Architecture shows that voucher holders are still heavily concentrated in economically and racially segregated areas of Austin.

HACA also tracks the number of voucher families with children moving each year into low- and high-poverty census tracts. In fiscal year 2008, 433 families moved into low-poverty tracts, while 442 moved into high-poverty tracts.<sup>50</sup>

The other voucher program that HACA administers is the Tenant-Based Rental Assistance Program (TBRA), in partnership with the City of Austin. Most of the 115 TBRA clients come directly out of homeless shelters. HACA has traditionally used the same screening criteria for TBRA as it does for the Housing Choice Voucher program, but the City of Austin has recently worked to relax some screening requirements regarding past felony convictions to better serve the homeless population attempting to access this program.<sup>51</sup>

## **B. Housing Authority of Travis County**

The Housing Authority of Travis County (HATC) is the second local agency administering the Housing Choice Voucher Program. HATC serves 550 families and employs only two housing specialists. HATC's leasing criteria are similar to those used at HACA, but HACT limits its families to spending no more than 30% of their income on rent and utilities.

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<sup>48</sup> Interview with Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin (February 12, 2010).

<sup>49</sup> A "low-poverty census tract" is defined as a tract in which the poverty rate is at or below the overall poverty rate for Travis County, which was 12.5% in the 2000 Census.

<sup>50</sup> Housing Authority of the City of Austin, "Section 8 Families with Children" (May 2008).

<sup>51</sup> Interview with Margaret Shaw, Director, City of Austin Neighborhood Housing and Community Development Department (March 23, 2010).



HATC also does not allocate the same level of resources that HACA does for client orientations, landlord recruitment, and tenant counseling assistance.<sup>52</sup>

### **C. City of Austin Policies and Programs**

In Austin, a landlord is not required to accept tenants with vouchers unless the unit is in a rental development that has received certain types of state and federal government assistance (such as federal Low Income Housing Tax Credits). In terms of city-funded affordable housing programs, the City of Austin has no firm requirements that housing developers receiving city funding or incentives must accept vouchers. For example, the city's "incentive-based" affordable housing programs, such as SMART Housing and various density bonus programs, which require the inclusion of affordable units in private market developments, do not require the property to accept vouchers.

The City's Rental Housing Development Assistance Program has guidelines that make it discretionary for the City to require a landlord to accept vouchers. By and large, for most developments receiving any type of general obligation bond funding or other city funding, the city includes a requirement that the development accept vouchers. However, the City can negotiate individual agreements that do not include such requirements. A recent example is the Stoneridge Development, where the Austin City Council made the policy decision to waive the voucher requirement.<sup>53</sup>

Further, while the Mueller Development requires that 25% of the units built onsite be affordable, the City's agreement does not require landlords at Mueller to accept vouchers. As a result, the Mosaic at Mueller Apartments, which recently opened at Mueller, does not accept tenants with vouchers. The City recognizes this as an oversight, and is looking into why a voucher requirement was not included in the city's agreement at Mueller.<sup>54</sup>

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<sup>52</sup> Interview with Jamie Mena, Special Projects Manager, Housing Authority of Travis County; and Christina Diaz, Assisted Housing Specialist, Housing Authority of Travis County (February 24, 2010).

<sup>53</sup> Interview with Margaret Shaw, Director, City of Austin Neighborhood Housing and Community Development Department (March 23, 2010).

<sup>54</sup> *Id.*

## **V. General Barriers to Fair Housing Choice**

When crafting programs that seek to expand housing choices for voucher holders in high opportunity neighborhoods, it is important to first understand the range of local barriers that impede access to units in these neighborhoods. The following section summarizes key barriers that have been identified in jurisdictions across the country, as well as barriers specific to Austin and Texas. Further analysis is needed to understand more precisely the roles that each of these barriers plays in specific submarkets of the Austin region.

Two of the most common barriers facing voucher families across the country as they seek to rent housing in high opportunity areas are: (1) refusal of landlords to accept the vouchers in these areas; and (2) lack of units in these areas with rents at or below the housing authority's voucher payment standard, especially units with three or more bedrooms. Again, without further analysis, it is unclear exactly how these barriers play out in specific submarkets of the Austin region.

### **A. Landlord Participation**

In Austin and across Texas, landlords are not required to accept tenants with vouchers. The only exception is in certain government-subsidized housing, which is by and large located in racially segregated neighborhoods. Tenants must therefore rely upon a system in which they can lease only with landlords who volunteer to participate in the voucher program. Under this voluntary system, many landlords make the choice to not accept tenants with vouchers.

While there is no Austin-specific information available, a 1995 survey by the U.S. Census Bureau found that, nationwide, 42% of property owners and managers did not accept voucher tenants.<sup>55</sup> According to a law review article, one study in Boston also found that most voucher holders in that city suffered discrimination from at least one landlord who refused to lease to them because of their status as voucher holders.<sup>56</sup>

There are several reasons why landlords refuse to accept tenants with vouchers:

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<sup>55</sup> U.S. Census Bureau, 1995 Property Owners and Managers Survey, "Multifamily Properties: Reasons for Not Accepting Section 8 Tenants," Table 54, available at <http://www.census.gov/hhes/www/housing/poms/multifam/mfsect8.html>.

<sup>56</sup> Paula Beck, "Fighting Section 8 Discrimination: The Fair Housing Act's New Frontier," *Harv. C.R.-C.L. L. Rev.* 31:155 (1996), p 161-62, n.139.

1. **Perception about bureaucratic hurdles:** Many landlords are reluctant to participate in the program because of perceptions (some valid and some not) about bureaucratic hurdles in the voucher program.<sup>57</sup> Accepting a tenant with a voucher is more inconvenient to the landlord than taking a tenant without a voucher. A landlord may not want to be subject to the requirement that the unit be inspected. Or, a landlord may not want to be subject to any of the other federal rules and regulations that come with a voucher, such as the good cause eviction standards and the regulation requiring a one-year lease upon the initial lease-up.

In an interview with a representative of the Texas Apartment Association (TAA), these bureaucratic hurdles were cited as the number reason for Texas landlords' reluctance to participate in the Housing Choice Voucher Program. Additional programmatic issues raised by TAA (although these are not specific to Austin and HACA) include: (1) the housing authority overreaching the housing quality standards during the mandatory inspection of the unit; (2) payment processing delays; (3) difficulties reaching someone at the housing authority when a problem arises; and (4) having to use the HUD tenant lease addendum, which trumps some terms in the standard landlord leases, such as disallowing landlord liens on tenant property when a tenant fails to pay rent. TAA says Texas landlords also have concerns about the heightened risk in taking a voucher tenant because, in the event the unit is damaged, the housing authority will not cover the damage and the landlord is less likely to be able to recover the repair costs from the tenant because of the tenant's low income.

We also heard at least one report that landlords may refuse to participate because they misunderstand the status of the law concerning "take one, take all." That is, some landlords may be under the impression that if a landlord accepts one tenant with a voucher, the landlord is obligated to accept all other tenants with vouchers. However, this is no longer the law. If a landlord accepts rents to one family with a voucher, the landlord is not required by law to accept other voucher families.<sup>58</sup>

2. **Discrimination.** A second reason some landlords refuse to accept voucher tenants is because of race and socioeconomic discrimination. In a 1995 census

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<sup>57</sup> Adam Culbreath, "Housing Discrimination Against Section 8 Families Calls for Creative Advocacy," *Youth Law News*, 20:2 (Mar-April 1999), p 2.

<sup>58</sup> Jeffrey Lubell, U.S. Department of Housing and Urban Development, "Recent Improvements to the Section 8 Tenant-Based Program," available at <http://www.huduser.org/periodicals/cityscpe/vol5num2/lubell.pdf>.

bureau survey, 12% of landlords admitted they did not accept Section 8 because they were “concerned about problems with Section 8 tenants.”<sup>59</sup>

Race discrimination is still widely pervasive in housing markets.<sup>60</sup> Both black and Hispanic households “routinely face discrimination” when searching for rental housing.<sup>61</sup> Studies have revealed that in 25% to 50% of searches for housing in major metropolitan areas, blacks and Hispanics “will be treated less favorably because of their race and ethnicity.”<sup>62</sup> Black and Hispanic voucher tenants likely face even higher rates of discrimination than the average minority household because of voucher tenants’ lower incomes.<sup>63</sup>

## **B. Lack of Affordable Units**

A second common barrier to opening up rental housing choices in high opportunity areas is one of supply: the limited number of units available at the Fair Market Rent (FMR) in higher opportunity submarkets with low vacancy rates. The FMR is based on fair market rents for a very large five-county area containing Bastrop, Caldwell, Hays, Travis, and Williamson counties,<sup>64</sup> where rents overall are lower than those in high

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<sup>59</sup> U.S. Census Bureau, 1995 Property Owners and Managers Survey, “Multifamily Properties: Reasons for Not Accepting Section 8 Tenants,” Table 54, available at <http://www.census.gov/hhes/www/housing/poms/multifam/mfsect8.html>.

<sup>60</sup> Paula Beck, “Fighting Section 8 Discrimination: The Fair Housing Act’s New Frontier,” *Harv. C.R.-C.L. L. Rev.* 31:155 (1996); Mary K. Cunningham & Noah Sawyer, “Moving to Better Neighborhoods with Mobility Counseling,” Urban Institute, Metropolitan Housing and Communities Center, Brief No. 8 (March 2005), p 1; Rolf Pendall, “Why Voucher and Certificate Users Live in Distressed Neighborhoods,” *Housing Policy Debate*, 11:4 (2000), p 884; Edward G. Goetz, *Clearing the Way: Deconcentrating the Poor in Urban America* (2003), p 241-2 (“[V]irtually every analysis of housing discrimination undertaken over the past 20 years shows that discrimination continues to pervade housing markets in all regions.”).

<sup>61</sup> Rolf Pendall, “Why Voucher and Certificate Users Live in Distressed Neighborhoods,” *Housing Policy Debate*, 11:4 (2000), p 884.

<sup>62</sup> Rolf Pendall, “Why Voucher and Certificate Users Live in Distressed Neighborhoods,” *Housing Policy Debate*, 11:4 (2000), p 906; Michael J. Yelnosky, “What Does ‘Testing’ Tell Us About the Incidence of Discrimination in Housing Markets?” *Seton Hall Law Review* 29:1488 (1999), p 1497. Even after factoring out the differences in poverty and family composition, black households are more likely than white households to live in poor neighborhoods. Xavier de Souza Briggs, “The Power and Limits of Place: New Directions for Housing Mobility and Research on Neighborhoods,” in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 45.

<sup>63</sup> Rolf Pendall, “Why Voucher and Certificate Users Live in Distressed Neighborhoods,” *Housing Policy Debate*, 11:4 (2000), p 884-5.

<sup>64</sup> U.S. Department of Housing and Urban Development, Final FY 2009 Fair Market Rent Documentation System, [http://www.huduser.org/datasets/fmr/fmrs/fy2009\\_code/2009summary.odn](http://www.huduser.org/datasets/fmr/fmrs/fy2009_code/2009summary.odn).

opportunity areas such as Central and West Austin. This barrier is compounded by the fact that both the Housing Authority of the City of Austin and the Travis County Housing Authority cap their payment standards at 100% of the area FMR and do not allow for an increased payment standard in high opportunity areas.

### **C. Other Barriers**

Other barriers to expanding housing choices for voucher holders in high opportunity areas include the difficulties that voucher tenants face in understanding and negotiating the rental housing market. Voucher tenants “do not by themselves resolve racial segregation problems”; many instead need education and a range of support services to successfully make a move to a high opportunity community.<sup>65</sup> Voucher holders without vehicles also face challenges moving to high opportunity areas that lack readily available public transportation.

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<sup>65</sup> Rolf Pendall, “Why Voucher and Certificate Users Live in Distressed Neighborhoods,” *Housing Policy Debate*, 11:4 (2000), p 884.

## **VI. Best Practices to Increase Fair Housing Choices for Voucher Tenants**

There are three core areas of best practices we have identified that could be used to further fair housing opportunities for voucher tenants in Austin:

1. Set a higher voucher payment standard for higher opportunity neighborhoods.
2. Adopt a housing mobility program with intensive assistance to tenants and landlord recruitment.
3. Prohibit discrimination against voucher holders.

Each of these best practices is addressed in turn, followed by three specific case studies of nationally-renowned programs that have made significant gains in increasing housing opportunities for voucher tenants.

### **A. Adopt Higher Voucher Payment Standards**

By law, a local housing authority can set a voucher payment standard of up to 110% of the FMR for all or specially designated parts of an FMR area.<sup>66</sup> A housing authority can also apply to HUD for “exception area rents” that exceed 110% of the FMR. The rules for exception rents are set up in order to help families find housing outside areas of high poverty.<sup>67</sup> The exception area must be a contiguous area and cannot consist of more than 50% of the population of the overall FMR area.<sup>68</sup>

Allowing voucher tenants to exceed the FMR in order to access a high opportunity neighborhood is a key tool utilized around the country to increase voucher tenant access to high opportunity areas. For example, the Baltimore mobility program has flexible rent caps of up to 130% FMR in higher opportunity neighborhoods as part of HUD’s Moving to Work program. Chicago’s model mobility program also established that greater mobility can be achieved with adjustments to the local housing payment standard and Fair Market Rent to reflect the higher private market rents in opportunity areas. In Dallas, housing authority clients have access to special “Walker Settlement Vouchers,” which allow a tenant to lease a unit at up to 125% FMR.

The challenge with this policy strategy is that, unless the funds come from outside a housing authority’s voucher allocation, providing for higher FMRs means serving less

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<sup>66</sup> 24 CFR § 982.503(a)(3); § 982.503(b)(1)(i) (2009).

<sup>67</sup> 24 CFR § 982.503(c)(4) (2009).

<sup>68</sup> 24 CFR § 982.503(c)(5) (2009). The exception rent must equal the 40<sup>th</sup> percentile rent within the exception area.

tenants. This policy strategy thus pits the housing authority's obligation to further fair housing (which is an un-waivable legal obligation) against the housing authority's goal to maximize the number of tenants it serves. Although on a long-term basis, according to one researcher, spending more money to help tenants access high opportunity housing can potentially "save thousands of dollars in the future in terms of health improvements, education, and employment opportunities."<sup>69</sup>

One way to help offset the resource dilemma is the approach Dallas has taken: by supplementing the existing HC vouchers with extra mobility vouchers that have flexible payment standards. Baltimore helped address resource deficiencies by raising philanthropic donations. Another approach is to supplement the vouchers with CDBG funds. The City of Austin could also ask HUD to increase the voucher allocation pursuant to HUD's fair housing obligations, if a compelling case can be made that an increase is needed to affirmatively further fair housing without cutting off the number of clients currently served.

## **B. Adopt a Housing Mobility Program**

The first voucher mobility program grew out of the landmark Chicago public housing desegregation lawsuit, *Gautreaux*. Since then, more than 55 jurisdictions across the country have adopted special mobility programs aimed at expanding the opportunities for voucher holders to live in economically or racially desegregated areas.

The origins of these mobility programs vary: Some programs are an outgrowth of litigation settlements in housing discrimination lawsuits, others were created as part of special federal programs such as the Moving to Opportunity demonstration program, and others are part of voluntary local programs. Yet, they all have the same general mission: to relocate low-income, minority tenants from segregated communities into low-poverty and/or high opportunity communities.

Even though the programs vary in the scope and range of services they offer to overcome historical patterns of economic and racial segregation, the two central goals of all mobility programs are to: (1) provide a range of services to support tenants in securing and retaining housing in a high opportunity or desegregated area; and (2) expand the number of landlords in high opportunity or desegregated areas who are willing to accept tenants with vouchers.

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<sup>69</sup> Mary K. Cunningham & Noah Sawyer, "Moving to Better Neighborhoods with Mobility Counseling," Urban Institute, Metropolitan Housing and Communities Center, Brief No. 8 (March 2005), p 9.

## 1. Assistance to Tenants.

Voucher tenants need extensive support to secure and retain housing in high opportunity neighborhoods. An essential tool that all mobility programs use to provide this support to tenants is active tenant counseling and education, which can include pre-move counseling to get tenants ready to move, counseling to assist tenants in locating and securing a unit, and post-move counseling to assist tenants adjust to their new community.<sup>70</sup> The more active the counseling of tenants, the greater success with increasing tenant mobility to higher opportunity areas.

**Pre-move counseling.** Mobility programs first assess the needs and priorities of the family in choosing an opportunity neighborhood. Having access to a quality public school may be a priority for one family, while close access to a community college may be a top priority for another. Mobility programs also then work with tenants to qualify for housing. Active mobility programs will counsel tenants about how to approach and interview a prospective landlord and negotiate a lease, and also help counsel tenants about their credit. Some programs also offer workshops for tenants on the rights and responsibilities of tenants and related topics. Some programs even provide home visits to identify whether tenants need training on housekeeping skills (these types of services also support landlord recruitment, see below) and to further assess the families' needs and goals.

**Placement assistance.** After screening families for their needs and priorities, mobility programs then educate the voucher holders about what opportunities are available to them and why the family should consider taking advantage of such opportunities. A mobility program will typically provide clients with a list of specific referrals to units in high opportunity areas that accept vouchers.

Education here is key: educating tenants not only about the option of moving into a higher opportunity area but also about the benefits of such a move. Mobility programs typically counsel families about the amenities in opportunity areas, such as schools (and their performance ratings), neighborhood safety, access to jobs and transportation, and other amenities. Many programs provide van tours to visit different opportunity neighborhoods and available rental properties in those neighborhoods. Some programs even provide a voucher client with the opportunity to meet with other voucher clients living in the targeted neighborhood. Additional services such as babysitting may further enable a voucher holder to go and see what opportunities are available.

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<sup>70</sup> John Goering, "The MTO Experiment," in *Geography of Opportunity* (2005), p 141; Rolf Pendall, "Why Voucher and Certificate Users Live in Distressed Neighborhoods," *Housing Policy Debate*, 11:4 (2000), p 906; Gene Rizer, "Essential Elements of Successful Mobility Counseling Programs," in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 40.



Once a tenant finds a unit, a best practice is for the mobility program to offer assistance to the tenant in negotiating a lease with the landlord. Since units in higher income markets often charge higher security deposits, many mobility programs also offer assistance with security deposits, application fees, and utility activation fees, or counsel the families well enough in advance about saving for the deposits and fees.<sup>71</sup>

**Post-move counseling.** Once a family has moved to an opportunity neighborhood, the family often needs help both staying in the neighborhood and also “leveraging the value of the new neighborhood.”<sup>72</sup> Post-move counseling helps identify any problems the voucher tenant is facing with the landlord or surrounding community, as well as helps connect the family to opportunities in the new community.<sup>73</sup> The mobility program should contact each family, ideally through a home visit, soon after they move to check in and help the family to deal with any unanticipated problems.

Some voucher tenants encounter problems with their new neighbors or school. In some cases, the neighbors or school employees may even react with hostility toward the new residents or their children. This is another area where mobility counselors can assist voucher holders, by counseling them regarding the appropriate action to take, which could include facilitating mediation services or even finding another rental property if necessary.

Voucher families may also find that the cost of extracurricular and social activities in their children’s new schools are higher than the families are able to afford. The voucher program can help link a family to financial assistance if necessary or offer financial literacy education to allow a family to find room in its own budget for the added expenses.

Whenever possible, mobility programs should offer “mobility plus” services which help link voucher families to services in the community—services such as workforce development and child care. Many voucher tenants have special needs for assistance in overcoming transportation barriers; mobility programs can focus on addressing these needs by linking tenants with car voucher programs and other transportation services.

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<sup>71</sup> Susan J. Popkin & Mary K. Cunningham, *CHAC Section 8 Program: Barriers to Successful Leasing Up* (Urban Institute, April 1999).

<sup>72</sup> Xavier de Souza Briggs & Margery Austin Turner, “Assisted Housing Mobility and the Success of Low-Income Minority Families: Lessons for Policy, Practice, and Future Research,” Urban Institute, Metropolitan Housing and Communities Center, Brief No. 5 (March 2008).

<sup>73</sup> Margery Austin Turner & Dolores Acevedo-Garcia, “The Benefits of Housing Mobility: a Review of the Research Evidence,” in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 18.

In areas where several voucher holders have moved, the mobility program can also create a network in which the families can offer support and provide information about various services they have discovered and enjoy nearby.

Many mobility programs also offer second-move counseling, in which families are contacted a month or two before their lease expires. If the family plans to move, the program then offers to help the family with its move and securing another unit in a high opportunity area. Research shows that second move counseling can help families move to progressively better neighborhoods over time.

## **2. Landlord Recruitment.**

The best practices to successful landlord recruitment in a mobility program include:

- Streamlining the process for landlords to participate in the program. The most necessary element of a successful mobility program from the landlord's perspective is efficient administration of the voucher program. Fast processing of paperwork, timely and accurate housing assistance payments, quick turn around on unit inspections, as well as effective communications with program staff, are all essential for mobility programs.<sup>74</sup>
- Actively recruiting landlords in desegregated and high opportunity neighborhoods. Landlords hold many myths and unfounded concerns regarding the demands of the voucher program. A housing authority needs to counteract these concerns with one-on-one meetings, newsletters, and articles in landlord and business publications. To gauge these concerns, a mobility program can conduct periodic landlord surveys and also create a landlord advisory committee. To recruit landlords in high opportunity areas, some mobility programs even offer a "signing bonus" in the form of cash or other reward for landlords who join the program or refer other landlords.<sup>75</sup>
- Providing quick assistance to the landlord and tenant when issues arise. Landlords need to know that whenever an issue arises, a housing authority counselor will be able and ready to respond in a timely manner.
- Developing a record for referring reliable tenants who meet their tenant responsibilities. The program should promote the aspects of the program that result in responsible tenants, such as the training and counseling available and screening criteria. Some mobility programs provide greater levels of screening for tenants in the mobility program and then promote this to landlords.

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<sup>74</sup> Gene Rizer, "Essential Elements of Successful Mobility Counseling Programs," in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 80.

<sup>75</sup> *Id.* at 86.

### 3. Other Best Practices.

In picking which “high opportunity” areas to target for voucher tenants, mobility programs need to develop a working definition of what constitutes a high opportunity area. The common definition is to look at census tracts with lower poverty levels than the city as a whole. Yet, income levels may be just a rough proxy for what makes a neighborhood a high opportunity area and a good place to live for families with children.<sup>76</sup> As a best practice, a mobility program should also look at other criteria such as high performing schools, access to public transportation, and other amenities needed by the family. After targeting specific neighborhoods with higher educational opportunities and other amenities, mobility programs then need to have a well developed understanding of housing submarkets in these areas: including the mix of bedroom units, vacancy rates, rents, and housing standards.

A final key element of a successful mobility program is the adoption of strong performance measurements: output measures that track advancements towards tangible program goals, such as the number of families who moved to better neighborhoods, the number of new landlords recruited in high opportunity neighborhoods, and the number of families making progress towards self-sufficiency. This data is key to guiding program implementation and creates program accountability.<sup>77</sup>

### C. Prohibit Discrimination

More than 52 cities, counties, and states, have adopted laws that prohibit discrimination based on the source of income used to pay rent.<sup>78</sup> Under these laws, a landlord cannot reject a prospective tenant based on the tenant’s source of income for the rent payment, as long as the tenant meets the landlord’s other screening criteria. This legal approach creates a protected category for source of income similar to race or familial status under a jurisdiction’s fair housing law.

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<sup>76</sup> Margery Austin Turner & Xavier de Souza Briggs, “Assisted Housing Mobility and the Success of Low-Income Minority Families: Lessons for Policy, Practice, and Future Research,” Urban Institute Metropolitan Housing and Communities Center, Brief No. 5 (March 2008), p 3, 8; John Goering, “The MTO Experiment,” in *Geography of Opportunity* (2005), p 141. Stefanie DeLuca, “The Continuing Relevance of the Gautreaux Program for Housing Mobility: Relevant Evidence,” in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 40.

<sup>77</sup> Margery Austin Turner & Xavier de Souza Briggs, “Measuring the Performance of Assisted Housing Mobility Programs,” in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005).

<sup>78</sup> See Addendum A for a list of these jurisdictions.

Source of income discrimination laws promote mobility by opening up rental housing opportunities in complexes where landlords otherwise would refuse to accept vouchers.<sup>79</sup> We found the following issues with adopting and implementing such a law:

### **1. Enforcement.**

Advocates report that discrimination laws are widely ignored by landlords and are not effective unless resources are available for enforcement. For example, in Chicago, enforcement of the city's source of income discrimination ordinance is left in the hands of the city's Committee on Human Relations, which not does engage in proactive enforcement of the ordinance.<sup>80</sup> Landlords can therefore easily get away with refusing to accept vouchers. The Chicago Lawyers' Committee for Better Housing conducted a survey, using fair housing testing methods, on landlord discrimination against voucher users and found routine discrimination based on voucher status, in addition to race and ethnic-based discrimination.<sup>81</sup> Voucher holders faced higher levels of discrimination in higher opportunity areas compared to lower opportunity areas.<sup>82</sup>

In New York, the agency charged with enforcement was also an opponent of the source of income discrimination ordinance when it was undergoing adoption. Enforcement has therefore been a special challenge. It has fallen on outside advocacy groups to bring attention to the ordinance and engage in proactive enforcement.<sup>83</sup>

In summary, in order for a source of income discrimination law to be effective, it is important that resources are also available to educate voucher holders and landlords about the law, to engage in testing to uncover violations, and to aggressively enforce violations.

### **2. Scope.**

A source of income law should be written to specifically cover discrimination against voucher holders. Some of source of income laws are written more generally by simply barring discrimination based on source of income, while others specifically prohibit

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<sup>79</sup> The U.S. Department of Housing and Urban Development has recently commissioned a Columbia University study seeking to determine more specifically the extent to which ordinances promote general mobility. The study is still in development.

<sup>80</sup> Interview with Kathleen Clark, Executive Director, Lawyers' Committee for Better Housing (Feb. 22, 2010).

<sup>81</sup> Lawyers' Committee for Better Housing "Locked Out: Barriers to Choice for Housing Choice Voucher Holders," p 8, available at <http://lcbh.org/images/2008/10/housing-voucher-barriers.pdf>.

<sup>82</sup> *Id.* at 10.

<sup>83</sup> Interview with Diane Houk, Emery Celli Brinckerhoff & Abady, LLP (April 16, 2010).

discrimination against voucher holders. Some courts have held that these more general laws do not cover voucher discrimination. For example, the California Court of Appeals found earlier this year that a Section 8 voucher is not a source of the tenant's income so discrimination against voucher holders is therefore not covered under the state's source of income discrimination law.<sup>84</sup> In contrast, the City of Chicago also passed a more general source of income ordinance, and the enforcing body, the Chicago Committee on Human Relations, later issued an order that the ordinance covered Section 8 voucher use.<sup>85</sup>

Cities and states are more likely to overcome court challenges if they include a specific reference to "Section 8 voucher assistance" or "rental assistance" as a source of income. For example, the highest state court of New Jersey held that the state's fair housing law covered Section 8 vouchers because the law prohibited discrimination, not only against source of income, but also against the "source of lawful income used for rental or mortgage payments."<sup>86</sup>

### **3. Adoption challenges.**

Source of income ordinances have not become law without political controversy at the local level, due in large part to vehement opposition by landlords. In New York City, Mayor Bloomberg aligned with landlords in vetoing a source of income discrimination ordinance in 2008, arguing that private landlords should not be forced to accept public funding against their will. However, a broad coalition of supporters for the bill, including affordable housing advocates, disability groups, and senior advocacy groups, ultimately led to the override of the mayor's veto and passage of the ordinance. In order to give the landlords some concessions, the New York ordinance exempts landlords who manage any building of less than five units.<sup>87</sup> In contrast, advocates in Washington State have been unsuccessful in passing a source of income discrimination law, despite many years of advocacy. Efforts in Texas to pass a similar law several years ago also failed.

Some of the issues raised by landlords opposing voucher discrimination ordinances include opposition to the voucher inspection requirements and bureaucratic delays. Advocates in New York made the point that the city building codes were already similar to HUD's inspection requirements and that the housing authority's voucher program provided for streamlined policies and procedures, so that landlords were not faced with

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<sup>84</sup> *Sabi v Sterling*, 107 Cal. Rptr. 3<sup>rd</sup> 805 (CA 2d App. Dist, April 8, 2010).

<sup>85</sup> Lawyers' Committee for Better Housing, "Locked Out: Barriers to Choice for Housing Choice Voucher Holders," p 3.

<sup>86</sup> *Franklin Tower One v N.M.*, 157 N.J. 602 (1999).

<sup>87</sup> Interview with Diane Houk, Emery Celli Brinckerhoff & Abady, LLP (April 16, 2010).

unnecessarily lengthy inspection processes or delayed payments.<sup>88</sup> In addressing landlord objections, it is also important to note that—aside from not being able to turn down a tenant because of the tenant’s status as a voucher holder—landlords subject to source of income discrimination laws are still able to screen Section 8 applicants as they would other possible tenants for things like criminal records and credit history.

One of the concerns that landlords may raise in Austin regarding the adoption of a source of income discrimination ordinance is a concern about over-concentration of low-income tenants: If a landlord is not allowed to turn away tenants based on their voucher status, what is to keep a property from no longer being a mixed-income property and instead becoming concentrated with a high volume of low-income tenants? We could find only one jurisdiction where this was an issue: In Howard County, Maryland, the source of income discrimination law was amended to provide landlords with a 20% “safe harbor.” Landlords there are allowed to refuse to rent to voucher holders when at least 20% of the property is already occupied by voucher holders.<sup>89</sup> Housing authorities have also addressed landlord and neighborhood concerns about over-concentration by limiting through internal policies the number of voucher holders who are allowed to occupy any individual property.<sup>90</sup>

## D. Case Studies

### 1. Dallas.<sup>91</sup>

The Dallas Mobility Assistance Program, or MAP, is operated by the Inclusive Communities Project (ICP). The program arose out of litigation (the “Walker” case) against the City of Dallas, HUD, and the Dallas Housing Authority in the 1980s. ICP’s mobility program is funded by the Walker Housing Fund Charitable Trust, which was created as part of the Walker litigation settlement. ICP received \$1.7 million from the trust in 2007.<sup>92</sup>

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<sup>88</sup> *Id.*

<sup>89</sup> Howard County Fair Housing Ordinance, §§12.200-12.218.

<sup>90</sup> Margery Austin Turner & Kale Williams, “Housing Mobility: Realizing the Promise,” Second National Conference on Assisted Housing Mobility (Dec. 1997).

<sup>91</sup> Most of the material from the Dallas case study comes from a conversation with the leaders of Inclusive Communities, Betsy Julian and Demetria McCain, and the following book chapter: Elizabeth K. Julian & Demetria L. McCain. “Housing Mobility: A Civil Right,” in *The Integration Debate: Competing Futures for American Cities* (2009), p 85.

<sup>92</sup> Form 990, Schedule B, Part I. Available at: [http://www.inclusivecommunities.net/documents/ICP990\\_2007.pdf](http://www.inclusivecommunities.net/documents/ICP990_2007.pdf).

MAP assists Housing Choice Voucher families to secure and retain housing in desegregated communities in Dallas and the seven surrounding counties,<sup>93</sup> in areas referred to as “Walker Targeted Areas” (WTAs). The court in the Walker litigation defined the WTAs as those that are predominantly non-minority and are not poverty-concentrated.<sup>94</sup> ICP also manages special “Walker Settlement Vouchers,” which have higher purchasing power than regular Housing Choice Vouchers, by allowing a tenant to lease a unit at up to 125% FMR rather than 90-110% FMR. The Walker Settlement Vouchers assist tenants with first-time move-related expenses, including application fees and security deposits, to help mitigate the costs of moving to the higher-income areas.

Dallas’s mobility program has given thousands of families the opportunity to move into communities from which they had once been excluded: approximately 2,500 African-American families have received Walker Settlement Vouchers since 2002, while an additional 3,500 families have used Housing Choice Vouchers to move into WTAs.

MAP counselors attend all Dallas Housing Authority briefings for voucher applicants. The counselors make presentations at the briefings about the services available for those wishing to make a mobility move. MAP counselors also monitor the Dallas Housing Authority presentations to ensure they provide adequate information about mobility choices and resources. MAP staff engage in on-going communication with housing authority staff to address any concerns that may arise.

MAP counselors are actively involved in educating and assisting the tenants in their moves to higher opportunity neighborhoods. The counselors visit families at their homes to assess their needs, desires, and concerns, and then assist them in locating an appropriate unit. The staff assess what resources the families need to make a successful move and then work with social service agencies to help families meet their needs.

MAP also educates families about their fair housing rights. The MAP program is supported by a team of civil rights lawyers who work to identify and remove racial and other barriers to housing mobility. For example, ICP can conduct testing when a tenant suspects he or she has been subject to racial discrimination by a landlord and ultimately, if necessary, engage in fair housing enforcement activity.

MAP staff conducts extensive outreach in non-minority, low-poverty areas to acquaint landlords with the program and to recruit them to work with MAP clients. MAP staff educate landlords about the voucher program generally and assist them in working out any issues with the housing authority. MAP staff also engage in extensive advocacy to

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<sup>93</sup> Dallas, Collin, Denton, Tarrant, Rockwall, Ellis, and Kaufman counties.

<sup>94</sup> WTAs are census tracts with 2000 poverty levels no higher than that of the City of Dallas (17.7%) and with a percentage of African-American population in 2000 that is no higher than that of the City of Dallas’s African-American population (25.9%).

help families overcome resistance by landlords to accept vouchers. MAP staff often negotiate with landlords to offer rents to program participants that are within the Fair Market Rent. Sometimes, when necessary, MAP will pay a landlord a bonus to incentivize the landlord to accept a voucher holder into the property. On a case-by-case basis, MAP also provides financial assistance for moving costs, security deposits, and other related moving costs.

Once a voucher holder moves into a new community, MAP staff continue to assist the family. Soon after the move, a MAP counselor visits the family to make sure the move went well and to address any issues that may have arisen. MAP identifies any additional financial and social service resources that the family needs and makes referrals on a wide range of matters. MAP provides families with information about schools, support services, amenities, and activities in their new communities. MAP also arranges regular, geographic-based “focus group” meetings with clients living in the same community, as well as outings for voucher families to connect with each other and their new communities. Further, MAP recruits mentors and tutors for children of voucher tenants to assist them in their transition to a new school and neighborhood.

Beyond the usual adjustments of moving to a new area, some voucher tenants find themselves the subject of outright discrimination and other tensions in a new community. When the hostility comes from neighbors or school personnel, MAP counselors work with families to address the issues which, depending on the circumstances, can involve facilitating communication between the parties, speaking with local officials about race relations in the community, and requesting or even attending parent/teacher conferences.

An additional barrier often encountered by voucher holders moving to high opportunity areas is the cost of participating in social and school extracurricular activities. MAP counselors often locate resources, such as untapped scholarships at schools, to assist students in purchasing band instruments and sports uniforms.

ICP is committed to a wide range of supplemental advocacy activities in Dallas and the surrounding seven counties to assist tenants with accessing housing in high opportunity areas and to address institutional barriers to fair housing. ICP’s advocacy work includes lawsuits that address the siting of government-funded affordable housing.

## **2. Chicago.**

The Chicago Housing Authority (CHA) runs the oldest as well as one of the most successful mobility programs in the country. CHA’s initial mobility program arose from court-ordered modifications to remedy discrimination in the placement of Chicago’s public housing,<sup>95</sup> but has since evolved into a broader-scale program. The city’s mobility

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<sup>95</sup> Edward G. Goetz, *Clearing the Way: Deconcentrating the Poor in Urban America* (2003), p 53.



program has become a model for other cities looking to address the concentration of poverty and to promote tenant access to high opportunity areas.<sup>96</sup>

In 1976, the Gautreaux public housing litigation in Chicago led to the adoption of a mobility program that enabled African-American public housing tenants to move out of their racially-segregated neighborhoods.<sup>97</sup> The program included orientation workshops, credit checks, home visits, mobility counseling, post-move aid to tenants, and referrals to local service agencies.<sup>98</sup> The program encouraged landlord participation with more intensive client screening and promised to keep the landlord's participation confidential, so as to not encourage a flood of voucher applicants to the property.<sup>99</sup> The Gautreaux mobility program ended in 1998 after moving about 7,500 families, with over half moving to low-poverty, majority-white suburbs.

Drawing from the lessons of the Gautreaux mobility program, Chicago has implemented a broader-based voucher mobility program called the Housing Opportunity Program (HOP), which is still in existence.<sup>100</sup> HOP is a voluntary program aimed at helping families who currently live in a high poverty neighborhood and have held a voucher for at least a year move into opportunity areas, defined as areas with a poverty rate of less than 24%.<sup>101</sup> In the 1990s, the costs of the program were around \$2200 for each family enrolled in the program.<sup>102</sup>

The services available through HOP include:

- Extensive landlord outreach.
- Intensive tenant counseling and assistance with the housing search and post-move issues. CHA assigns a family advisor to each family to help the family identify needs and desires in terms of housing and community services. The advisor then assists the family find appropriate housing in a high opportunity area. CHA will even provide transportation to view units in opportunity neighborhoods.

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<sup>96</sup> Margery Austin Turner and Lynette A. Rawlings, *Overcoming Concentrated Poverty and Isolation: Lessons From Three HUD Demonstration Initiatives*, (Urban Institute, July 2005), p 11.

<sup>97</sup> Edward G. Goetz, *Clearing the Way: Deconcentrating the Poor in Urban America* (2003), p 53.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> See "Housing Opportunity Program" on the Chicago Housing Authority's website, [http://www.thecha.org/pages/housing\\_opportunity\\_program/86.php](http://www.thecha.org/pages/housing_opportunity_program/86.php).

<sup>101</sup> Gene Rizor, "Essential Elements of Successful Mobility Counseling Programs" in *Keeping the Promise: Preserving and Enhancing Mobility in the Section 8 Housing Choice Voucher Program*, eds: Philip Tegeler, et al (Poverty & Race Research Action Council, Dec. 2005), p 97.

<sup>102</sup> *Id.* at 99.

- Assistance with paying security deposits through no interest loans.
- Extensive education about opportunity areas, including videos, a monthly magazine, and guided tours of opportunity areas.
- Provision of a free credit report to tenants so that they can address any credit issues that may impede their ability to rent a unit.
- Tenant education about tenant rights and responsibilities and household budgeting.
- Post-move counseling: CHA's family advisor continues to work with the family after the move to address any barriers that may arise, such as transportation issues.

Chicago also has a source of income discrimination ordinance, which makes it illegal for landlords to discriminate against tenants with vouchers. However, the advocate we spoke to there believes that the ordinance is generally ignored by landlords and that the ordinance has therefore had limited effectiveness in promoting mobility.<sup>103</sup>

### 3. Baltimore.<sup>104</sup>

The Baltimore Housing Mobility Program started in 2003. The mobility program arose out of public housing desegregation litigation filed in 1995 by the ACLU of Maryland in a case called *Thompson v. HUD*. Under the program, more than 1,500 families have moved from highly segregated and low-opportunity communities to racially-integrated, low-poverty neighborhoods.

Metropolitan Baltimore Quadel (MBQ) administers the mobility program under contract with the Housing Authority of Baltimore City (HABC). Oversight is provided by HABC, HUD, and the ACLU. The Baltimore Regional Housing Campaign provides support to MBQ to develop policy strategies to increase housing choice and promote tenant mobility; the campaign has also attracted foundation investment in the program.<sup>105</sup> As of August 2009, 19,286 families had applied to the program.<sup>106</sup>

Similar to the Dallas and Chicago programs, the Baltimore program is a regional mobility program: the program targets neighborhoods located in a six-county area where less than 10% of residents are in poverty, less than 30% of residents are minorities, and less

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<sup>103</sup> Interview with Kathleen Clark, Executive Director, Lawyers' Committee for Better Housing (Feb. 22, 2010).

<sup>104</sup> The majority of the information on Baltimore comes from the following report: Lora Engdahl, "New Homes, New Neighborhoods, New Schools: A Progress Report on the Baltimore Housing Mobility Program," Poverty & Race Research Action Council (Oct. 2009).

<sup>105</sup> *Id.* at 12-13.

<sup>106</sup> *Id.* at 17.

than 5% of units are HUD-assisted units.<sup>107</sup>

The extensive counseling aspects of the program are key to its success. The program utilizes 12 program counselors who provide extensive pre-move counseling to assist participants with qualifying and securing a home in a high opportunity community. MBQ helps tenants clean up their credit, save for a security deposit and moving costs, and prepare to be successful tenants through financial counseling, budget workshops, and education sessions on tenant rights and responsibilities. Staff also conduct home visits to address any housekeeping or related issues. MBQ regularly takes applicants on tours of high opportunity communities and counsels them extensively on thinking through the amenities they need and that are available in the community they are considering, such as access to a bus stop and good schools.<sup>108</sup>

After a voucher tenant moves into a unit, the program provides two years of post-move counseling. The counseling begins within three weeks of the move, with a visit by the counselor to the tenant's new home. Just as critically, the program provides "second-move" counseling—counseling to tenants who are requesting a move to a second home, to ensure the tenants can continue to access high opportunity housing. As part of this counseling, tenants with school-age children are encouraged to move during a break in the school year to minimize the impact on the children.<sup>109</sup>

Other key aspects of the program include:

- Program monitoring: MBQ staff regularly monitor maps and data to ensure program progress. The ACLU also provides oversight. MBQ further monitors placements to protect against the overconcentration of voucher tenants in certain neighborhoods.
- Philanthropic investment: The Baltimore Regional Housing Campaign has been able to secure foundation investment in the program to support enhanced services for participating families.
- Regional mobility: Under special rules governing the program, participants can search for units in a six-county region under just one set of program regulations and applications.
- Rent flexibility: The program provides for more flexible rent payment standards in areas with higher rents.
- Assistance with security deposits: The program pays a portion of eligible tenants' security deposits, up to \$1,000 per tenant.
- Landlord outreach: MBQ conducts extensive outreach to landlords and highlights the counseling aspects of the program. If a problem with the tenant comes up,

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<sup>107</sup> *Id.* at 14.

<sup>108</sup> *Id.* at 16-17.

<sup>109</sup> *Id.* at 19-20.

an MBQ counselor is available to assist as well. MBQ also enters into some project-based agreements with landlords in high opportunity areas who agree to accept voucher payments for a set period of time.

- Other support: The Baltimore program provides a wide range of additional support for voucher participants, including employment counseling and transportation assistance (by connecting voucher tenants with a nonprofit car ownership program).

The Baltimore program has resulted in a series of successful outcomes for participating families, including the following:

- Participants report they feel safer, less stressed, and more motivated in their new neighborhoods. Many families also reported improvements in their mental and physical health.<sup>110</sup>
- Participants have relocated to areas with high performing schools and report their children are learning better in their new schools.<sup>111</sup>
- Preliminary signs reveal that families are accessing suburban job opportunities.<sup>112</sup>

Several areas near Baltimore prohibit discrimination against tenants with vouchers, which—together with higher voucher payment standards—significantly opens up housing choices for voucher holders in high opportunity areas. In addition to Howard County, the following areas near Baltimore prohibit discrimination against tenants with vouchers: Montgomery County, Frederick County and Frederick City, Maryland.

A voucher mobility expert in Baltimore points out the importance of these ordinances not only in the context of opening up opportunities for tenants, but also in protecting against the displacement of tenants.<sup>113</sup> In 2006, three large apartment complexes participating in the city's mobility program were sold to a hedge fund—one in Howard County, which has a source of income discrimination law, and the other two in counties without such a law. The new owner decided to no longer accept voucher holders and to not renew the leases of any existing voucher holders. The 35 families in the Howard County complex were protected from displacement as a result of that county's discrimination ordinance. The 100 or so families in the other two complexes had no protections and ended up being displaced.<sup>114</sup>

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<sup>110</sup> *Id.* at 27-28.

<sup>111</sup> *Id.* at 28-30.

<sup>112</sup> *Id.* at 31-32.

<sup>113</sup> E-mail from Barbara Samuels, ACLU of Maryland (Apr. 7, 2010).

<sup>114</sup> *Id.*

## **VI. Looking Ahead**

Austin is already engaged in several of the best practices discussed above. The city is especially fortunate to have a housing authority that is firmly committed to effectively and efficiently serving its clients. However, there are a wide range of best practices which are not being implemented locally and which government officials and advocates should explore adopting. We believe these practices would provide for much more effective fair housing choices for minority tenants with vouchers. Some of the most promising opportunities for change include:

1. Develop a set of target neighborhoods for voucher families that contain high opportunities for families with children, including high performing public schools, access to public transportation, low crime rates, and green space. Consider not only the levels of poverty, but also these other important aspects of opportunity communities, especially the quality of public schools.
2. Conduct a comprehensive assessment of the availability and affordability of family-friendly rental housing in high opportunity areas and the precise scope of barriers to voucher tenants accessing these units. Austin needs a much better understanding of the reasons why so many landlords do not accept vouchers locally, including testing to understand to what extent racial and voucher discrimination plays a role.
3. Develop an extensive tenant mobility program for targeted high opportunity areas.
  - a. Set higher voucher payment standards for these targeted areas.
  - b. Engage in more extensive mobility counseling and provide other resources along the lines offered in the Chicago, Dallas, and Baltimore mobility programs.
  - c. Create a fund to provide incentives for landlord participation.
4. To the extent this has not been done recently, HACA and the City of Austin should develop landlord focus groups to determine how to increase voucher participation in opportunity areas. It would be helpful to have separate focus groups of landlords who do not currently accept tenants with vouchers, as well as focus groups of landlords who do accept tenants with vouchers, to flesh out what the perceived and actual barriers are for expanding participation. As part of outreach to landlord groups, we identified a need to educate landlords that there is no “take one, take all” requirement. If a landlord accepts one tenant with a voucher, a landlord is not obligated to accept other tenants with vouchers.
5. Prohibit discrimination against voucher holders in all housing units that receive any form of government subsidies, incentives, or entitlements. Strengthen the City of Austin’s policies and ordinances to require a voucher discrimination ban in all projects receiving any type of city funding, incentives, or increase in zoning

entitlements, including the Rental Housing Developer Assistance Program, general obligation bonds, and the city's various density bonus programs.

6. Provide more resources for monitoring and enforcement of fair housing violations in the rental housing market.
7. Consider amending the City of Austin's Fair Housing ordinance to add "source of income" as a protected class, and to explicitly bar landlords from refusing to admit a tenant because of his or her status as a voucher holder.

While "[a]chieving meaningful change requires sustained effort over several years,"<sup>115</sup> the above actions can help set Austin on a stronger course to further fair housing opportunities for thousands of low-income minority families.

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<sup>115</sup> Margery Austin Turner and Lynette A. Rawlings, *Overcoming Concentrated Poverty and Isolation: Lessons From Three HUD Demonstration Initiatives*, (Urban Institute, July 2005), p 3.

## **Addendum A: Source of Income Discrimination Laws**

### State Statutes

California  
District of Columbia  
Maine  
Oklahoma  
Vermont

Connecticut  
Massachusetts  
New Jersey  
Utah  
Wisconsin

### Local Ordinances

Ann Arbor, MI  
Benton County, OR  
Buffalo, NY  
Chicago, IL  
Corte Madera, CA  
East Palo Alto, CA  
Grand Rapids, MI  
Hamburg, NY  
Howard County, MD  
King County, WA  
Madison, WI  
Montgomery County, MD  
Naperville, IL  
New York City, NY  
Portland, OR  
Ripon, WI  
San Francisco, CA  
Sun Prairie, WI  
West Seneca, NY  
Wauwatosa, WI

Bellevue, WA  
Borough of State College, PA  
Cambridge, WI  
Cook County, IL  
Dane County, WI  
Frederick, MD  
Hamburg, MI  
Harwood Heights, IL  
Iowa City, IA  
Los Angeles, CA  
Memphis, TN  
Multnomah County, OR  
Nassau County, NY  
Philadelphia, PA  
Prince George's County, MD  
Saint Louis, MO  
Seattle, WA  
Urbana, IL  
Wheeling, IL  
Woodland, CA

## **Addendum B: List of Interviews Conducted for the Report**

Kathleen Clark, Executive Director, Lawyers' Committee for Better Housing, Chicago, IL

Christina Diaz, Assisted Housing Specialist, Housing Authority of Travis County,  
Austin, TX

Lisa Garcia, Vice President of Assisted Housing, Housing Authority of the City of Austin

Isabelle Headrick, Director of Programs, Blackland Community Development  
Corporation, Austin, TX

Diane Houk, Emery Celli Brinckerhoff & Abady, LLP, New York, NY

Elizabeth ("Betsy") Julian, President, Inclusive Communities, Dallas, TX

Joy Lamb, Regional Vice President, Capstone Real Estate Services, Austin, TX

Jamie Mena, Special Projects Manager, Housing Authority of Travis County, Austin, TX

David Mintz, Vice President of Government Affairs, Texas Apartment Association,  
Austin, TX

Margaret Shaw, Director, City of Austin Neighborhood Housing and Community  
Development Office

W Gisela Silva, Landlord Outreach Specialist, Housing Authority of the City of Austin

Kathy Stark, Executive Director, Austin Tenants Council, Austin, TX

Walter Moreau, Executive Director, Foundation Communities, Austin, TX