March 19, 2020

Emergency Subsidized Housing Measures in the Wake of the COVID-19 Outbreak

Dear [NAME]:

We are writing to request the [LOCATION] Housing Authority’s assistance in addressing critical issues impacting subsidized housing tenants in the wake of the COVID-19 (Coronavirus) pandemic.

The COVID-19 outbreak has markedly impacted the state of California, and nowhere has this impact been more concentrated than in the San Francisco Bay Area, the region that has registered over half of the coronavirus cases that have been reported in this state. The acceleration of the coronavirus within our region has already led to serious repercussions not only in relation to public health, but also with respect to the decimation of the economic livelihoods of thousands of Bay Area residents. The urgency that the coronavirus pandemic poses has led the State of California to declare a state of emergency. For their part, seven Bay Area counties have implemented ‘Shelter-in-Place’ orders. The above measures have already impacted a slew of local businesses and have led to a significant wave of layoffs and reduced working hours for thousands of employees in our area.

Lower income workers, in particular those who depend on subsidized housing for shelter, are especially vulnerable in the wave of layoffs and wage reductions. Income loss, however slight, directly impacts a tenant’s ability to pay rent, and a period of three weeks or longer without income will undoubtedly make it extremely difficult for subsidized housing tenants employed in the impacted industries to make their rental payments. We are thus now faced with the imminent prospect of having a significant and increasing percentage of subsidized housing tenants in our area: 1) who are unable to work and therefore pay their rent, and 2) who will have no ability to leave their homes to obtain important documentation that the [HOUSING AUTHORITY] may require in order to process interim or annual recertifications, unit or voucher transfers, or other important requests due to shelter in place measures.

Moreover, it is clear that proceeding with evictions and subsidy terminations in this current climate would exponentially worsen the public health crisis in that it would force affected families into crowded shelters, compel them to share inadequately sized
spaces with family and friends, or place them onto the street. Additionally, seniors and those who are immunocompromised would be at increased risk of serious illness and death due to coronavirus infection should they experience homelessness.

The best way to protect subsidized housing tenants now is to ensure that they continue to remain in stable and safe housing. In light of the serious concerns raised in the wake of the coronavirus pandemic, we accordingly request that the [HOUSING AUTHORITY] take the following actions in order to preserve and to secure subsidized-housing opportunities within [LOCATION]:

**Recommended Immediate Actions**

1) Suspend all [HOUSING AUTHORITY] Public Housing and subsidized housing eviction actions—other than lease bifurcations and evictions of abusers as mandated under VAWA—until the declared state of emergency and any other applicable shelter-in place restrictions have been lifted.

2) Suspend all [HOUSING AUTHORITY] Project Based and Housing Choice Voucher terminations against program participants (including for HUD-VASH and Family Self-Sufficiency Programs)—other than terminations of abusers as mandated under VAWA—until the declared state of emergency and any other applicable shelter-in place restrictions have been lifted.¹

3) To the extent feasible, that the [HOUSING AUTHORITY] suspend implementation of any owner-requested contract rent increases for project based and housing choice voucher participants for a period of at least 60 days, with additional extensions as may be necessary.

4) Identify available housing units for individuals who are homeless or housing unstable, who should qualify for priority under most disaster relief admission policies.

5) Provide generous deadline extensions to subsidized-housing program participants for the submission of program-related documentation. Specifically, it is important that the [HOUSING AUTHORITY] not penalize tenants who cannot provide otherwise timely documentation because of health or safety issues (e.g. a tenant who cannot get to a bank to get their bank statements or who cannot communicate with their SSI or CalWORKs workers to obtain their benefits information).

¹ Forestallment of eviction actions is in line with the eviction moratoriums implemented in local jurisdictions such as San Francisco and San Jose. Additionally, as of March 18, 2020, HUD has agreed to suspend mortgage payments and evictions for homeowners receiving HUD-based financing for a period of 60 days. See [https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-BackedMortgages.aspx](https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-BackedMortgages.aspx). It is imperative that subsidized housing tenants be afforded protections that serve to safeguard their rights to housing stability on an equal footing as homeowners with HUD-financed mortgages.
6) Afford participants a streamlined and reliable process for electronic or regular delivery of important documentation to the [HOUSING AUTHORITY]. If the [HOUSING AUTHORITY] has not already done so, program participants should be afforded the ability to conduct all interim and annual recertifications online, or via mail if the participants do not have access to a computer with an internet connection. Wherever possible, the [HOUSING AUTHORITY] should a) use releases it already has on file from annual recertifications to contact employers to verify information and; b) if verification from third parties cannot be obtained, that it allow program participants the ability to verify the information via a sworn statement made under penalty of perjury.

Additional Recommended Measures

1) When applicable, that the [HOUSING AUTHORITY] proactively work with subsidized housing tenants and voucher participants to assist them with becoming current on their rent. These efforts should: a) include the offering of extended payment plans and, b) be pursued in good faith prior to resorting to the eviction and/or subsidy termination process.

2) Allow for retroactive rent reductions where tenants are unable to timely report income reductions due to job loss, quarantine, fears of infection, and other situations related to the COVID-19 outbreak.

3) Consider mitigating circumstances in termination proceedings where a tenant was evicted or accused of a program violation during the COVID-19 outbreak due to circumstances arising out of the pandemic.

4) Suspend the time for tenants to report interim increases in income until their next regularly scheduled annual recertification if the [HOUSING AUTHORITY] has not already done so.

5) Adopt more flexible approaches so as to permit extended absences from assisted units without permission or a threat of termination.

6) Use flexible approaches to allow for certain guests to remain in homes without jeopardizing the housing assistance of their friends or loved ones.

7) Ensure that tenants and voucher recipients can continue to assert their VAWA rights, including through emergency transfers, and that such transfer requests are expeditiously processed.

8) Ensure that tenants and voucher recipients can continue to assert their Reasonable Accommodation rights, and that such requests, particularly those involving moves or voucher extensions, are expeditiously processed.

9) Implement more flexible guidelines for transfer voucher extension requests for all housing choice voucher participants.
These proposed measures are in line with the procedures adopted by other PHAs across the nation, such as the Housing Authorities in Massachusetts, Virginia, and Louisiana.

Bay Area Legal Aid and the [HOUSING AUTHORITY] hold a mutual interest in ensuring the preservation of essential affordable housing opportunities for those residing with in the [LOCATION]. While the coronavirus pandemic presents serious and unparalleled challenges for vulnerable Bay Area residents, it also provides us stakeholders with an invaluable opportunity to collaborate in order to address these challenges for the benefit of subsidized housing tenants.

We welcome the opportunity to discuss the above proposals with you and your staff either in writing or via teleconference. Please do not hesitate to contact us if you have any further questions.

Very truly yours,

[Signature]

Bay Area Legal Aid