

August 15, 2016

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 Seventh Street, S.W.
Room 10276
Washington, DC 20410-0001

**Re: Docket No. FR-5855-P-02: Establishing a More Effective Fair Market Rent System;
Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher
Program Instead of the Current 50th Percentile FMRs; Proposed Rule**

To Whom It May Concern:

On behalf of the undersigned organizations, please find our comments on the above-referenced proposed rule. Our organizations represent thousands of firms involved in the multifamily rental housing industry, including the building, operation and management of affordable rental properties. Several of our organizations are also affiliated with local associations that work with HUD field offices and public housing authorities (PHAs).

We strongly support the Housing Choice Voucher (HCV) program, which provides rental assistance and choice to over two million households who live in privately owned housing. We have long maintained that the FMRs are neither fair nor market and appreciate attempts to better reflect in the FMRs the intricacies that exist in local real estate markets. We are not convinced, however, that zip codes represent real estate markets. As a result, we appreciate having this opportunity to comment on the proposed rule.

Ultimately, although we recognize that moving low income households to areas of opportunity may be a worthwhile objective, and we strongly support the principle of choice in the voucher program, we continue to have serious concerns about the current proposal to use SAFMRs to manage the HCV program.

Lack of Evidence that SAFMRs are More Effective

Our concerns are centered on a lack of evidence that SAFMRs in their current state represent an accurate real estate market and have a sound methodology behind them. Furthermore, we are also concerned with the potential negative impact on residents that choose to use their voucher in areas that experience a decrease in the payment standard. For these reasons, we strongly oppose HUD's decision to proceed at this time with rulemaking on SAFMRs and strongly urge the Department to reconsider its decision.

The above-referenced notice eliminates the use of the current 50th Percentile FMR Program for areas within qualifying areas, calculating FMRs by zip codes rather than metropolitan areas. It particularly notes a large number of areas have been disqualified from the 50th percentile program for failure to show measurable reduction in voucher concentration of HCV tenant since 2001 when the program started, which strongly suggests that the deconcentration objective is not being met. However, these limitations are a function of the parameters HUD chose for the current 50th Percentile Program and it remains to be seen whether the SAFMRs methodology is any more successful at addressing the same issue.

The notice also states that "research indicates that 50th percentile FMRs are not an effective tool in increasing HCV tenant moves from areas of low opportunity to higher opportunity areas; specifically; it appears that much of the benefit of increased FMRs simply accrues to landlords in

lower rent submarket areas in the form of higher rents rather than creating an incentive for tenants to move to units in communities with more and/or better opportunities.”

We believe this statement to be incorrect. HUD, in support of the notice cites, “The Incidence of Housing Voucher Generosity” by Collinson and Ganong. However, Collinson and Ganong analyzes substantially different models for 50th percentile FMRs rents and SAFMRs. The research by Collinson and Ganong uses different measures of neighborhood quality when evaluating the 50th percentile program and SAFMR program and never considers tenants who move under a metro wide 50th percentile program. As a result, it has nothing to say about the effectiveness of that program in terms of stimulating moves and has limited utility when discussing improvements of neighborhood quality for voucher holders.

The definitions of quality are also inconsistent enough to render cross-model comparisons of the impact on quality inconclusive, but there is an even more serious shortcoming in the treatment of quality in the analysis. Specifically, the Collinson and Ganong analysis uses two-stage models to control for endogeneity resulting from the discretion local housing authorities have in establishing payment standards. However, the paper ignores a more important source of endogeneity resulting from the discretion owners of rental property have in using rent increases to finance improvements that benefit their tenants.

That is, the paper never explores whether rents and quality are causally related as follows:

Increased rental income→ increased spending on property maintenance & tenant services→ higher quality unit for tenants.

Particularly for subsidized properties in lower income neighborhoods where margins are thin, any increases in rents are very likely to be used for property maintenance, repair and improvements, or to finance operations that bring benefits to tenants, such as enhanced security. An analysis like Collinson and Ganong, that ignores this important question about a link between rent and quality and fails to consider what property owners do with revenue from rents, cannot be used to determine that property owners are benefitting more than tenants.

Additionally, the Collinson and Ganong paper relies on one geography to base its findings (Dallas, TX). One of the major findings asserted is that there is a net zero effect on the number of vouchers and expenses for the housing authority. While this may be true for that specific geography, real estate markets vary tremendously throughout the country, and may not be true elsewhere. If a geography experiences a high number of moves to areas with higher payment standards, that could result in a fewer number of available vouchers when the need is greater than ever today. We encourage HUD to delay any implementation until at least findings from the other SAFMRs pilot areas are publicly released.

Conclusion

The Collinson and Ganong analysis fails to consider tendency to move and uses extremely limited neighborhood characteristics for the 50th percentile FMR program, and therefore provides no basis for concluding that SAFMRs or any other program is superior to 50th FMRs according to these measures. The Collinson-Ganong conclusions about benefits accruing to property owners rather than tenants are also not valid due to their failure to consider a possible causal link between rental income and unit quality. Absent other research HUD can cite, we conclude there is currently no evidence that SAFMRs are more or less effective than 50th percentile FMRs.

Furthermore, even HUD acknowledges that “several years of data are needed to examine the effect of SAFMRs” in the “The Small Area FMR Demonstration,” article found in HUD’s 2013 *Cityscape* (Volume 15, Number 1). While the *Cityscape* article highlights the fact that the demonstration will operate from October 1, 2012 through September 20, 2016, we are dismayed that HUD would move forward with the concept before the results of the demonstration have been analyzed, with a full analysis of those areas originally included in the demonstration, including: The Chattanooga (Tennessee) Housing Authority; The Housing Authority of the County of Cook (Illinois); The Housing Authority of the City of Long Beach (California); The Town of Mamaroneck (New York); and the Housing Authority of the city of Laredo (Texas).

Criteria for Implementation

HUD should not codify the criteria for selecting SAFMRs, as this is an unproven concept and should be reviewed more fully. Even though we understand that moving low income residents to neighborhoods that are more desirable by some standards can produce positive outcomes for the movers, conversely, lowering payment standards can also have a negative impact on residents who choose to remain in their neighborhood.

While it may seem that people would move if given the opportunity to move to an area that features higher payment standards, there are many factors beyond rent that determines why a household chooses to remain in their current location, including proximity to employment, transportation choices, affordable childcare or relatives living nearby.

A sense of “place” or “neighborhood” is tied to more than their housing unit¹. Multiple studies have referenced the fact that when given the opportunity to move to “better” neighborhoods, many assisted households choose to remain in their existing community².

If a current voucher holder chooses to remain in his or her neighborhood, and that neighborhood experiences a decrease in the payment standard as a result of the lower SAFMRs without a corresponding reduction in the unit rent, that voucher holder’s share of the rent will be much higher. The unintended consequence of this policy change could price the resident out of the voucher market in that neighborhood.

In many neighborhoods where there is an active effort to revitalize the community, a reduction in the payment standard may well hinder those efforts, resulting in disinvestment. This would have a detrimental effect on those that have no voucher and no ability to relocate whatsoever.

Improving conditions within lower-income neighborhoods can and also does lead to positive outcomes. Recognizing this, many government programs and policies have sought to encourage investment in disadvantaged neighborhoods, and the HCV program is often part of this. For example, at the federal level, the Low Income Housing Tax Credit (LIHTC) program encourages residential investment in relatively disadvantaged neighborhoods by providing additional credit in Qualified Census Tracts (QCTs), and many states specifically require or

¹ Tester G, Ruel E, Anderson A, Reitzes D, Oakley D. Sense of Place among Atlanta Public Housing Residents. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*. 2011; 88(3).

² Holloway, Adrienne M. From the City to the Suburbs: Characteristics of Suburban Neighborhoods Where Chicago Housing Choice Voucher Households Relocated. *Urban Studies Research*. 2014.

encourage LIHTC investment in QCTs. Often this is part of a plan to attract commercial development into the same area. Moreover, the LIHTC program requires property owners to accept HCV tenants and many LIHTC properties have a relatively high percentage of HCV tenants.

The result is a centerpiece of local jurisdiction's overall strategy of investment in a disadvantaged neighborhood supported by a combination of the LIHTC and HCV programs. A similar scenario can arise from combining HCVs with other federal programs, such as HOME Investment Partnerships or Community Development Block Grants.

Once again, we wish to reiterate that our concern about the SAFMRs proposal is the potentially devastating impact payment standard reductions will have on residents that choose to remain in their current neighborhoods. This includes both voucher holders and non-voucher holders. We are gravely concerned that HUD has not thoroughly considered the possible unintended consequences of implementing SAFMRs in neighborhoods which desperately need quality affordable housing and investment in neighborhood revitalization initiatives.

Conclusion

The SAFMR proposal is flawed because it fails to consider the possible effect on residents who choose to remain or are forced to remain due to a lack of vacant units in a "high opportunity" zip code, and the potential disinvestment in the neighborhoods that lose support when payment standards decline.

Hold Harmless Principle

For the reasons stated above, and based on the currently available research, we strongly oppose the imposition of SAFMRs at this time. If HUD nevertheless moves forward with rulemaking on the SAFMRs proposal and allows payment standards to increase in higher-income "opportunity neighborhoods," HUD must be careful to do no harm to disadvantaged neighborhoods and the residents who chose to remain. We recommend that the existing FMRs serve as the SAFMR's floor in neighborhoods that would otherwise experience reductions in HCV payment standards under HUD's proposal.

Conclusion

If HUD feels it must move ahead with a SAFMRs program it should establish a floor at the current FMR, holding areas harmless and not allowing the payment standard to decline anywhere simply due to a change in methodology. Additionally, we are supportive of the concepts contained in PL 114-201/H.R. 3700, the "Housing Opportunity Through Modernization Act of 2016." The law states that "No PHA shall be required to reduce any payment standard for a unit based on a reduction in the fair market rent determination if the family occupying the unit before the FMR analysis continues to reside in the unit."

Methodology Concerns

While HUD's attempt to address the endemic poverty issues in the United States, in part through the voucher program is laudable, we are concerned that the methodology proposed does not help achieve that goal. Unfortunately, there are elements in the data sets released that make it impossible to determine the full impact of the proposal. In addition, the lag associated with the American Community Survey data causes the SAFMRs to be lower than actual market rents for all types of housing. In Washington, DC, for example, only five zip codes have an increase in fair market rents under the proposed methodology. Areas that have experienced rent growth in recent years, such as NoMa (zip code 20002), would actually have a decline of almost \$500 for a two-bedroom unit under the proposed methodology.

Conclusion

SAFMRs should not be implemented until a full analysis of the demonstration programs has been studied, and the data released to the public should be verifiable.

Summary of Overall Recommendations

We urge HUD to retreat from this effort until such time that sufficient data and evidence are available from multiple sources and jurisdictions to support the removal of the Success Rate Payment Standard in favor of Small Area FMRs. Furthermore, we encourage HUD to investigate alternative geographies to represent "small areas" in lieu of zip codes.

HUD should first publicize the pilot demonstration areas findings, before implementing the proposed rule. Industry stakeholders should have an opportunity to review the demonstration's findings.

We greatly appreciate the opportunity to comment on the Notice of Proposed Rulemaking for using SAFMRs. If you have any questions, please contact Caitlin Walter cwalter@nmhc.org or Lisa Blackwell lblackwell@nmhc.org with the National Multifamily Housing Council.

Sincerely,

Council for Affordable and Rural Housing
Institute of Real Estate Management Association
National Affordable Housing Management Association
National Apartment Association
National Association of Housing Cooperatives
National Leased Housing Association
National Multifamily Housing Council