



# New York City Council Hearing

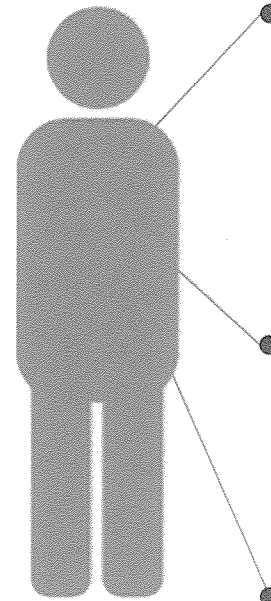
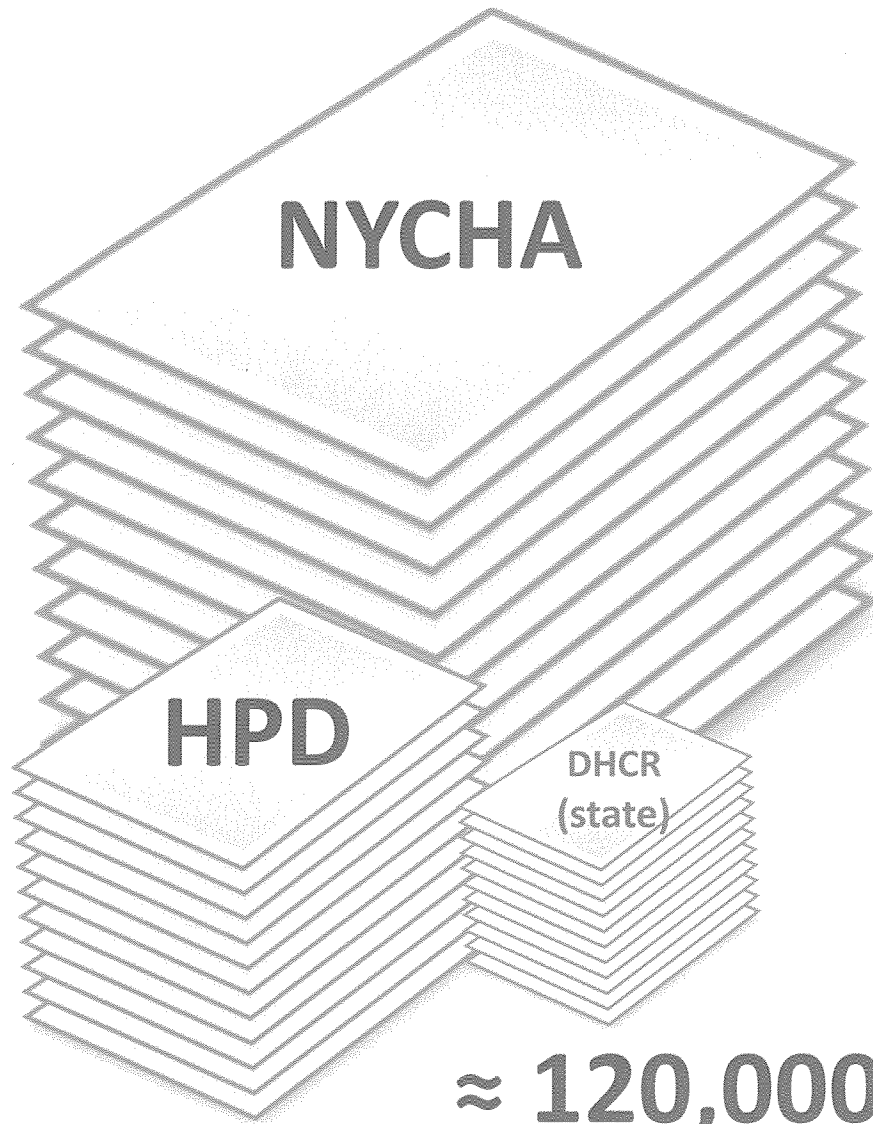
October 5, 2016

**NYC**<sup>™</sup>

Department of  
Housing Preservation  
& Development



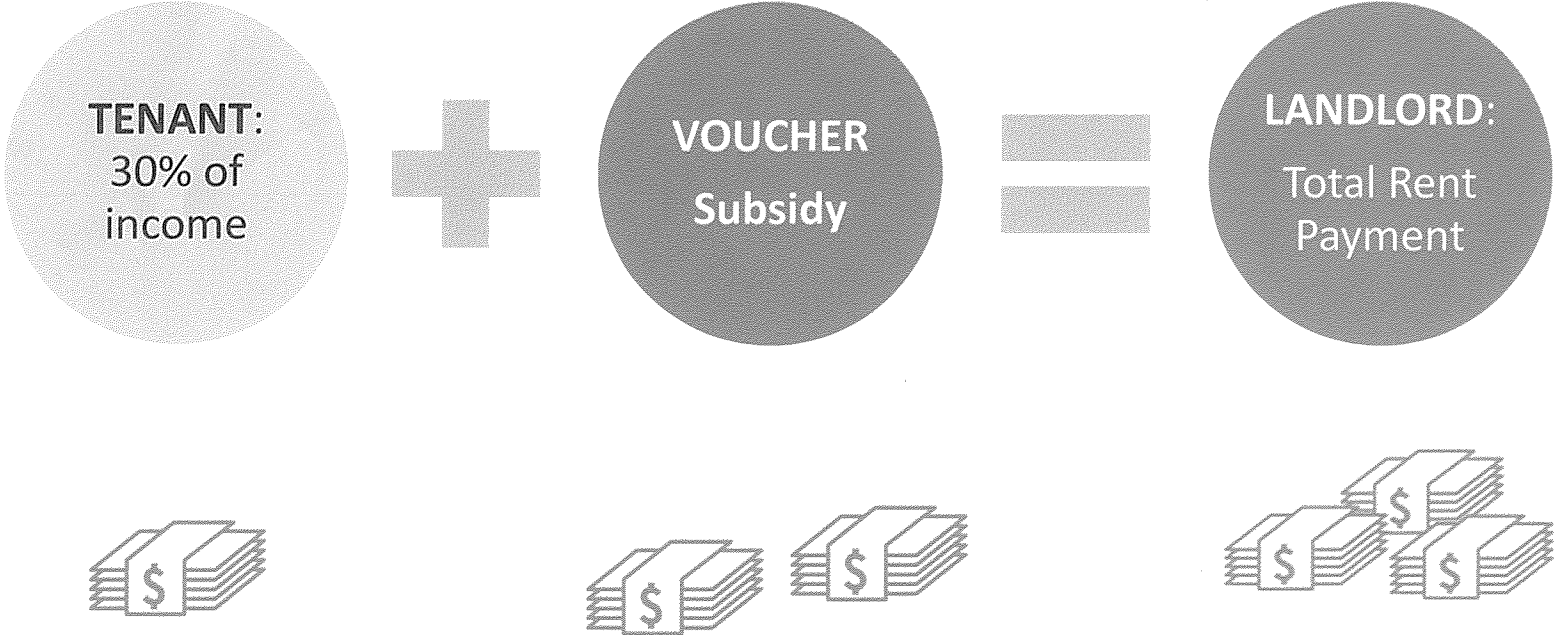
# New York City's Voucher Programs



- $\approx$  Half senior/  
disabled  
households
- Mostly in Bronx  
or Brooklyn
- Earn  $<$  30% AMI

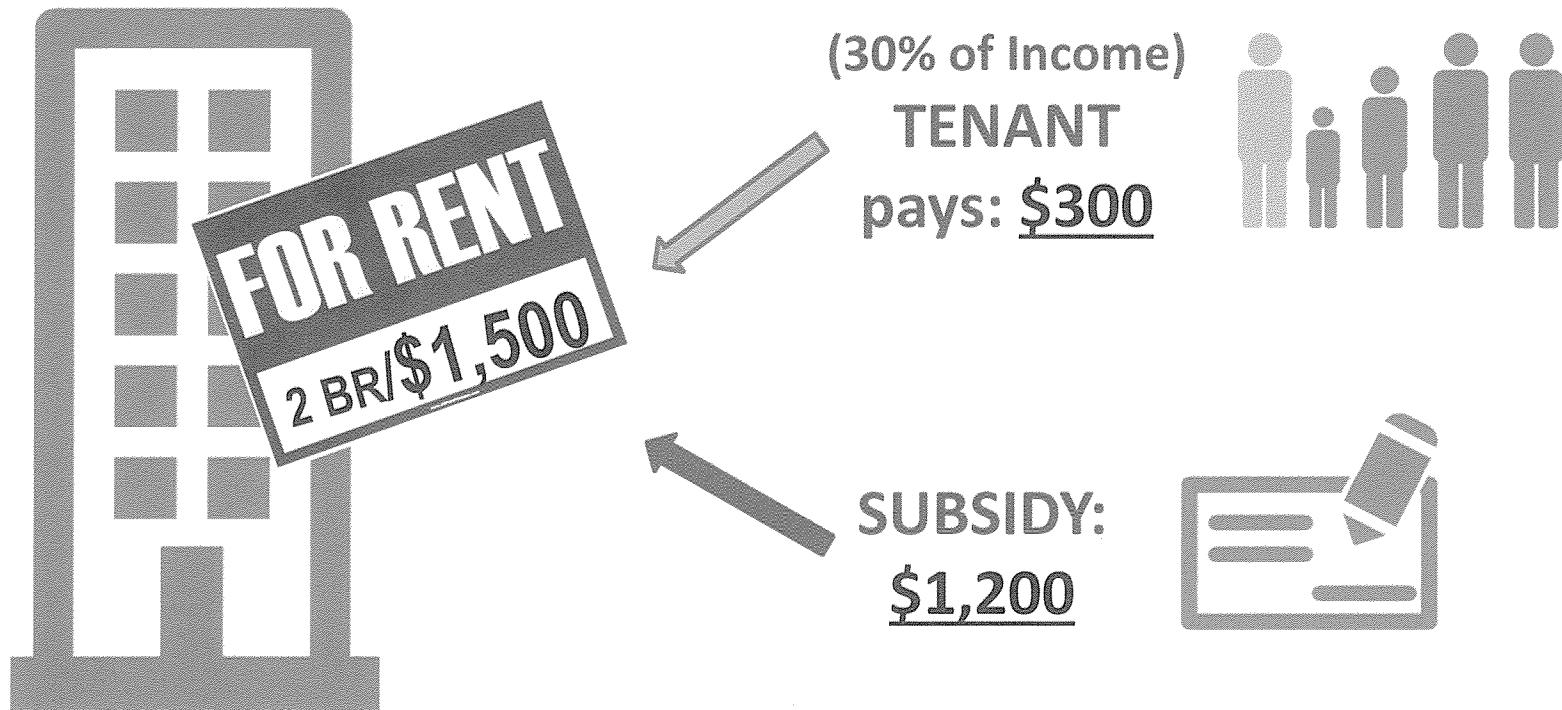
$\approx$  120,000 vouchers

# Section 8 Program Overview



# Fair Market Rents

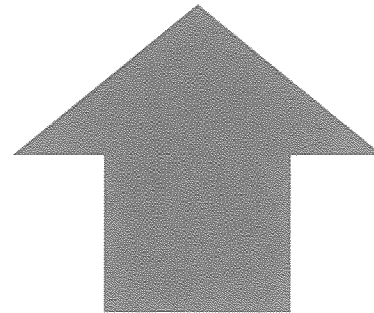
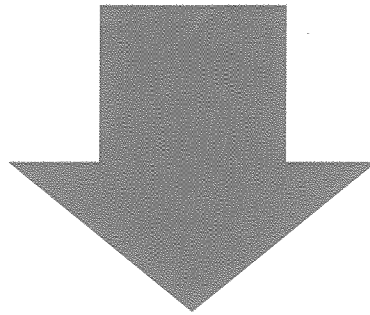
- HUD sets FMRs annually based Census data
- For all of New York City, FMR for a 2-Bedroom is \$1,571





# Lower FMRs Means Lower Rent Subsidy

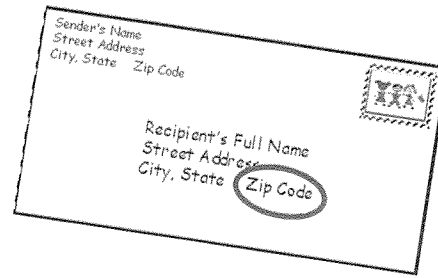
FMR & rent  
**subsidy**  
*decrease*



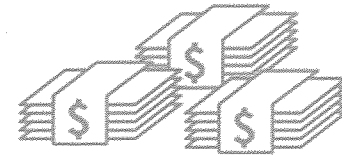
**Tenant**  
portion of  
rent  
*increases*

# HUD's Proposed SAFMR Rule

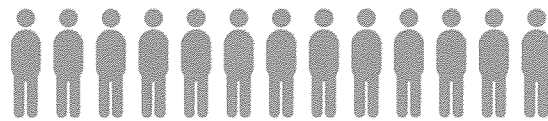
- Issue: FMRs don't reflect differences in rent *within* metro areas
- HUD's proposed rule:  
set FMR by **zip code**
- Policy would have a number of unintended negative consequences in low-vacancy, high rent cities like New York City



# Effect of SAFMRs in NYC



- Rental vacancy rate is 3.45%
- Nowhere to move
- Out-of-pocket rent expenses would go up for tenants.

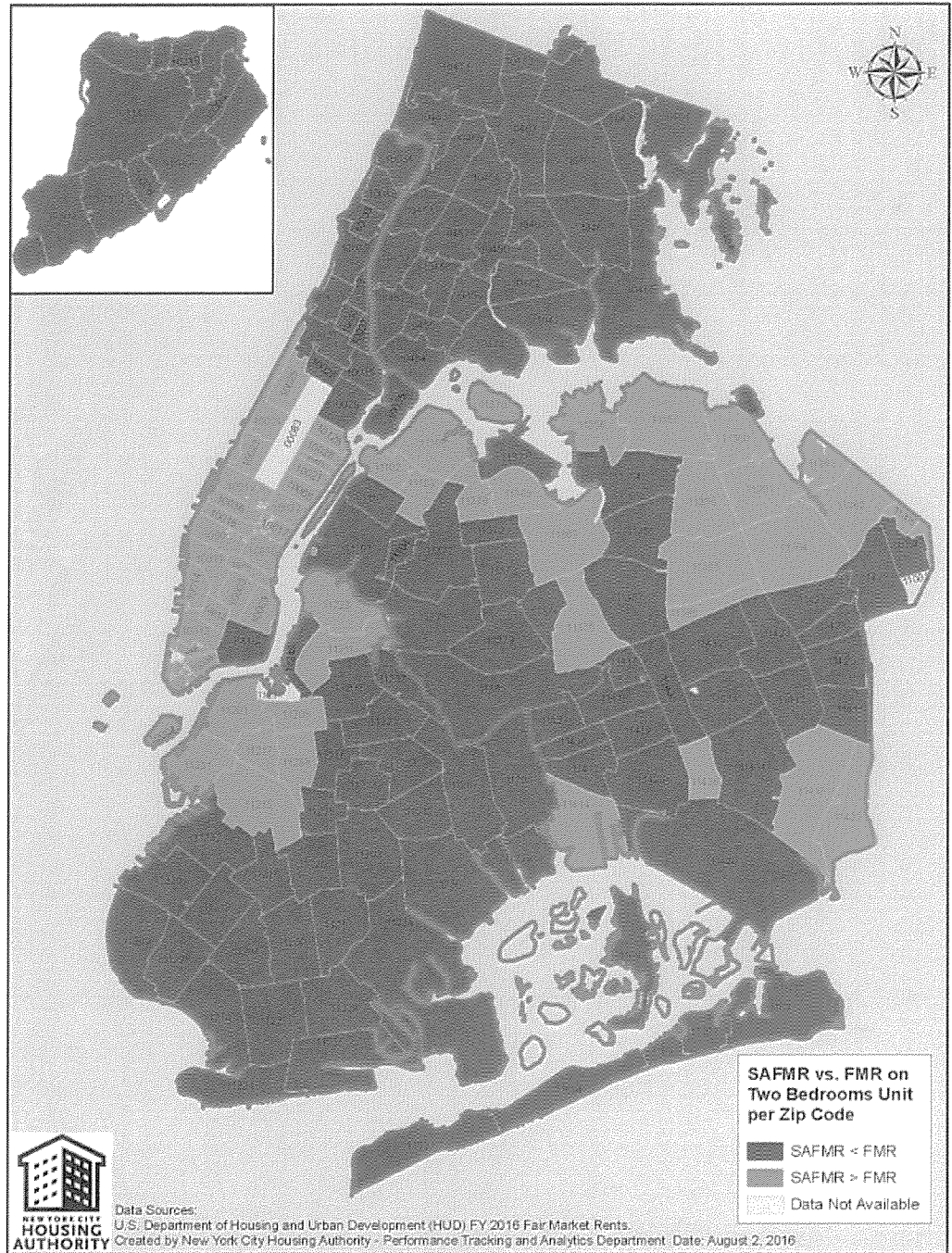


- **55,605 households** in New York City may pay more in rent under the proposal.

# Example of Impact on Tenant's Rent

	Current FMR: \$1,500	SAFMR: \$1,300
Payment Standard	\$1,500	\$1,300 ↓
Monthly Rent	\$1,500	\$1,500
30% Tenant's Income	\$300	\$300
Agency Payment	\$1,200	\$1,000 ↓
Additional Tenant Rent	0	\$200
Total Tenant Share	\$300	\$500 ↑

# FMR Increases & Decreases Under the Proposed Rule, Relative to Current FMR



# Recommendations to HUD: Vacancy Rate Exemption

- **Exempt** metro areas with a rental vacancy rate **at or below 5 percent** from mandatory use of SAFMRs
- Unlikely to facilitate mobility in low-vacancy cities and may have unintended negative consequences for program participants.



# Recommendations to HUD: Use More Recent Data

- **Revise** the rent-setting formula for SAFMRs to account for recent rent trends in ZIP codes.
- The proposed SAFMR criteria use data that are not reflective of recent market changes.
- This could result in a loss of affordable units and displacement of voucher holders in these neighborhoods.

# Recommendations to HUD:

## Exclude PBVs

- **Exempt** future project-based vouchers (PBVs) subject to SAFMRs.
- PBVs are one of the most effective tools for creating new affordable housing and preserving existing affordable housing, especially in high-cost cities with tight rental markets.

# Recommendations to HUD: Alternative Models

- Allow PHAs to use **alternative methods** for reaching the SAFMR goals of improving mobility and de-concentrating voucher holders.
- While SAFMRs may not encourage mobility in low-vacancy rental markets, other mobility strategies that account for local market conditions may be effective.

# Questions



TESTIMONY FROM NYCHA EXECUTIVE VICE PRESIDENT FOR LEASED HOUSING CATHY PENNINGTON AND HPD DEPUTY COMMISSIONER EVA TRIMBLE  
HUD'S PROPOSED RULE ON SMALL AREA FAIR MARKET RENTS FOR THE SECTION 8 PROGRAM  
COMMITTEE ON PUBLIC HOUSING  
WEDNESDAY, OCTOBER 5, 2016 – 1:00 PM  
COUNCIL CHAMBERS, CITY HALL, NEW YORK, NY

**Introduction (*slide 1*)**

Chair Ritchie Torres, members of the Committee on Public Housing, and other distinguished members of the City Council: good afternoon. I am Cathy Pennington, NYCHA's Executive Vice President for Leased Housing. Joining me today is Eva Trimble, Deputy Commissioner for Financial Management and Tenant Resources at the New York City Department of Housing Preservation and Development (HPD). Thank you for the opportunity to comment on HUD's proposed rule to establish Small Area Fair Market Rents, known as SAFMRs.

**New York City's Voucher Programs (*slide 2*)**

The federal Housing Choice Voucher program, or Section 8, helps very low-income families afford safe, decent housing in the private market. Section 8 vouchers are funded by the federal government and administered by local housing authorities and agencies. NYCHA and HPD, together with the State, administer the largest Section 8 program in the country, with over 120,000 vouchers in New York City.

Hundreds of thousands of New Yorkers have stable housing and a pathway to opportunity thanks to Section 8 rental assistance. These families are among the City's most vulnerable and neediest: About half of the voucher holders are elderly or disabled, and most earn less than 30 percent of the area median income. The average household income for our voucher holders is just \$15,803. About three-quarters of NYCHA's Section 8 recipients live in the Bronx and Brooklyn.

## **Section 8 Program Overview (*slide 3*)**

Section 8 voucher holders find and select housing that meets the program's requirements. They pay 30 percent of their household income toward rent, and the housing agency pays the rest, up to a maximum amount known as the voucher payment standard, which is based on Fair Market Rents (FMR) in the area.

## **Fair Market Rents (*slide 4*)**

HUD establishes FMRs for cities across the nation. In New York City, the HUD-determined 2016 FMR for a two-bedroom apartment is \$1,571. For example, a family renting a two-bedroom in New York for \$1,500 a month pays 30 percent of their monthly household income, say \$300, and the housing agency makes up the difference with a subsidy of \$1,200.

## **Lower FMRs Mean Lower Rent Subsidy (*slide 5*)**

If the FMR decreases, the housing agency pays less of a subsidy and the voucher holder is left paying a larger share of the rent.

## **HUD's Proposed SAFMR Rule (*slide 6*)**

HUD has proposed a rule that would mandate the use of Small Area Fair Market Rents in 31 metropolitan areas, including New York City. Instead of a metropolitan-wide FMR, these SAFMRs would establish 188 different FMRs for each residential ZIP code in New York City.

The rule is intended to provide low-income families with more housing mobility options. We support its well-intended goal to open up more neighborhoods and housing choices for families, regardless of their income. However, we have concerns about the negative impact SAFMRs would have in low-vacancy, high-



rent cities like New York. There are serious concerns that the proposed change would not result in increased mobility, but would increase the rent burden, or in other words raise the out-of-pocket rent expenses for the majority of New York's Section 8 program participants.

### **Effect of SAFMRs in New York City (slide 7)**

The bottom line is that in New York City, there's nowhere to move to. Our rental vacancy rate is 3.45 percent, which means that in a city of more than 8 million, only about 75,000 apartments are available at any given time. The vacancy rate drops to 1.8 percent (or 6,658 apartments) when you're talking about truly affordable units. This makes the search for housing difficult for any renter, but especially for voucher holders seeking affordable units. Consider this: Currently, nearly a quarter of voucher holders search for and cannot find an affordable apartment in New York City each year. It takes as long as a year for many Section 8 applicants to find housing because of the low-vacancy of the City's affordable housing stock. If this rule inadvertently narrows housing choice further, it could take NYC voucher holders even longer to find an affordable apartment to rent.

Doors would remain closed to low-income families seeking housing in high-rent neighborhoods because the subsidy – even if there were an increase with SAFMR – would simply not be enough to open up opportunities in NYC's high-rental markets.

And most concerning, nearly half of New York City's voucher holders – about 56,000 families – would see their share of rent go up, some by as much as \$400 a month, saddling them with a possibly unsustainable rent burden.

Those impacted are the ones who need the most assistance – 52 percent of households who would confront higher rents include seniors and people with disabilities.

### **Example of Impact on Tenant's Rent (*slide 8*)**

For example, if a SAFMR in a certain ZIP code lowers the payment standard to \$1,300 from \$1,500, the family's share of the rent nearly doubles from \$300 to \$500. For some families, \$200 a month can be the difference between housing security and homelessness.

### **Examples of Lower SAFMRs in NYC ZIP Codes (*slide 9*)**

As shown in the map, Section 8 recipients would face rent increases in 65 percent of the City's ZIP codes, including the Bronx, Staten Island, Manhattan, and Brooklyn. The proposed change hits the Bronx the hardest, from Kingsbridge to Highbridge: more than 21,200 households living in 9 ZIP codes in the Bronx would bear the brunt of these changes.

Additionally, there are a number of neighborhoods across the City where the proposed SAFMR is lower than the current FMR, even though statistics clearly show rising rents in those areas. In one ZIP code on the Lower East Side, for example, the SAFMR would be \$1,130, almost \$500 lower than the current citywide FMR of \$1,571. And in East Harlem, the median monthly rent for available apartments is over \$2,300 a month, while the proposed SAFMR is just over \$1,000 for a one-bedroom apartment.

With that, I'd like to again introduce my colleague from HPD, Eva Trimble, who will discuss our recommendations to improve the proposed rule.

*[Eva Trimble:]*

Thank you, Cathy, and good afternoon Chair Torres and Council Members.

HPD appreciates the opportunity to sit with NYCHA, voice our mutual concerns with the impact SAFMR would have on New York City, and to share our recommendations with you today.

In May, HUD published the proposed rule that my colleague discussed and opened it for a 90-day comment period. HPD and NYCHA jointly submitted comments that highlight our concerns about the proposed rule and make recommendations for ways to better address the challenges that HUD is attempting to overcome.

In our comments, we recommended that HUD make several key changes to the proposed rule so that it enhances mobility for voucher holders without negatively impacting current and future program participants.

### **Recommendations to HUD: Vacancy Rate Exemption (*slide 10*)**

The formula HUD used to choose the 31 cities selected for what they say is the first round of mandatory SAFMR implementation did not account for rental vacancy rate, which we believe is a crucial area for consideration when looking at mobility.

We recommended excluding metropolitan areas with a rental vacancy rate at or below 5 percent from the mandatory use of SAFMRs. Again, we believe that in cities like New York, where very few apartments are available for rent at any given time, SAFMRs will not facilitate mobility. Instead, we expect that many recipients would struggle to find an affordable apartment in “high-opportunity” neighborhoods with high rents.

And reduced payment standards in the low-cost ZIP codes will not compel landlords to lower rents – it just means that voucher holders will struggle to afford the increased rent. If they can no longer afford to stay in their homes,

landlords can easily replace them with the many New Yorkers who don't have vouchers but have the incomes to move in.

**Recommendations to HUD: Use More Recent Data (*slide 11*)**

In addition to adding a vacancy-rate criteria to the SAFMR selection formula, we believe the formula to determine which cities are subject to SAFMR uses outdated data sources and is therefore not sufficiently sensitive to recent changes in many of our neighborhoods.

HUD's intent was to select public housing authorities that have a high concentration of voucher holders in low-income areas compared to unassisted market renters. However, HUD's data does not reflect the fact that many areas designated as low-income have actually seen rents rising considerably. For instance, we found that in neighborhoods which are becoming higher cost, the average SAFMR is only 87 percent of the current FMR. If HUD were to consider these changing neighborhoods in the data, then our voucher concentration would not meet the threshold required to be included in the SAFMR designation.

In addition, these data lags mean that SAFMRs do not reflect gentrification trends, and we recommend that the SAFMR formula account for a neighborhood's increasing rent trend. Our concern is that reduced SAFMR rental subsidies in these changing neighborhoods will lead to the displacement of the low-income families who have long called those neighborhoods their home.

**Recommendations to HUD: Exclude PBVs (*slide 12*)**

As HUD looks to implement SAFMRs, they are considering the inclusion of Project-Based Vouchers under the new rule, which we strongly opposed.

Project-based vouchers or PBVs – rental subsidies tied to units – are a critical tool for creating and preserving affordable housing, key goals of this

Administration and NYCHA's long-term strategic plan, *NextGeneration NYCHA*. NYCHA and HPD administer over 4,700 PBVs currently, and more than 3,000 are in the pipeline. Across the City, PBVs maintain neighborhood diversity and give low-income families the opportunity to live in high-cost neighborhoods. They house our most vulnerable populations, often providing supportive housing for seniors, veterans, the formerly homeless, and people with disabilities.

A reduction in rent subsidies with SAFMRs would seriously challenge the feasibility of many affordable housing creation and preservation initiatives.

For example, HPD recently financed a project that will provide supportive housing to 90 formerly homeless veterans in the Fordham Heights neighborhood in the Bronx. Under the proposed SAFMRs, this project would suffer an annual operating shortfall of \$45,000 and a \$2 million gap in capital funding in its current Bronx location. And if we wanted to move this same project to a SAFMR "higher-opportunity" neighborhood, say Chelsea for instance, to take advantage of higher subsidies, the project would still come up short. The extremely high acquisition costs in this type of neighborhood would not be offset by higher SAFMRs, and in this case the project would still see a financing gap of more than \$23 million, which City and other federal resources would be hard pressed to cover.

### **Recommendations to HUD: Alternative Models (*slide 13*)**

Lastly, we recommended that public housing authorities be allowed to use alternative methods for achieving the SAFMR goals of improved mobility for voucher holders. Much of the research that supports HUD's emphasis on mobility for voucher holders in high-poverty neighborhoods stems from successful outcomes for families with young children who see verifiable benefits from a move to a higher-opportunity neighborhood. However, in New York City, the majority of our voucher holders are elderly and disabled, without children in their households. Our analysis shows that the broad strategy of SAFMRs is

unlikely to encourage mobility for these tenants. However, we do support the intended goals of mobility and access to higher-opportunity neighborhoods as a choice for families. Local strategies that are tailored to low-vacancy cities like New York may be more effective. For instance, HPD is exploring two tools that would work in conjunction to support mobility. Firstly, HPD is preparing a request to HUD for an Exception Payment Standard above and beyond what is currently permitted, which would allow NYC to offer increased payment standards within a set geographic area. HPD is also developing a mobility program that targets families who want to move to “higher-opportunity” neighborhoods. These strategies would combine to provide greater flexibility for those who want to take advantage of the “choice” in the housing choice voucher program. This effort would be based on a local definition of a “higher-opportunity” neighborhood, including those that do in fact have affordable apartments available to rent.

Thank you.

*[Cathy Pennington:]*

### **Conclusion (slide 14)**

Thank you, Eva. Preserving and creating affordable housing, and providing invaluable rental assistance to hundreds of thousands of New Yorkers, is the heart of what we do. And we wouldn't be able to provide stability and opportunity for families without the help from our City and federal partners.

While the intention behind the proposed rule regarding SAFMRs – mobility and opportunity – aligns with our mission, we believe that it can be improved to better serve New York City voucher holders. To put it this way, ZIP codes are for delivering mail, not defining neighborhoods.



Chair Torres, thank you for bringing attention to this critical issue. We support the resolution that you introduced with Council Member Williams which calls on the exclusion of New York City and other cities with a vacancy rate below 5 percent from the SAFMRs.

As leaders in the effort to keep New York City affordable for everyone, we must continue to work together.

Thank you, again. We are happy to answer any questions you may have.

COMMITTEE ON SMALL BUSINESS  
RANKING DEMOCRATIC MEMBER

COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON HOUSING AND INSURANCE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS  
AND CONSUMER CREDIT

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

**NYDIA M. VELAZQUEZ**

7TH DISTRICT, NEW YORK

CONGRESSIONAL HISPANIC CAUCUS

CONGRESSIONAL CAUCUS FOR  
WOMEN'S ISSUES

CONGRESSIONAL  
PROGRESSIVE CAUCUS

OLDER AMERICANS CAUCUS

CONGRESSIONAL  
CHILDREN'S CAUCUS

October 5, 2016

The New York City Council  
Committee on Public Housing  
City Hall  
New York, NY 10007

Re: Oversight Hearing on the U.S. Department of Housing and Urban Development's Proposed Rule on the use of Small Area Fair Market Rent

Dear Members of the Committee:

Thank you for providing me with the opportunity to submit comments on the U.S. Department of Housing and Urban Development's ("HUD") proposed rule on the use of Small Area Fair Market Rents ("SAFMR").

HUD's proposed rule seeks to use SAFMRs in New York City and other select metropolitan areas to provide tenants with a more effective means to move into neighborhoods of higher opportunity. Under the proposal, the Department will calculate Fair Market Rents ("FMRs") by ZIP Code, instead of calculating FMRs as a single metropolitan area FMR, in order to more accurately reflect housing sub-markets within a metropolitan region. By calculating FMRs by ZIP Code, HUD hopes that Small Area FMRs will afford Housing Choice Voucher ("HCV") tenants and families with a subsidy adequate enough to make higher opportunity neighborhoods more accessible.

While I appreciate HUD's desire to encourage and enhance outcomes and opportunities for HCV tenants and families, the proposed rule, as it applies New York City, is currently unworkable and must be changed. More than 55,000 voucher holders in New York City will see their subsidy decrease because of the proposal. In my Congressional District, more than 2,700 renters will be impacted—many of them seeing their rent burdens rise by more than \$200 per month.

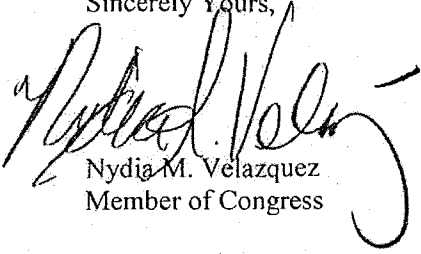
Individuals and families facing a decrease in their monthly rental assistance payments will either be forced to move to a higher income neighborhood—where no vacancies exist, due to the City's extremely low vacancy rate, which currently stands at 3.45 percent--re-negotiate with their landlord for a lower rent, or assume a significantly higher rent burden just to stay in their home.

Due to the devastating impact this proposal will have on our City, I continue to lead the effort on behalf of the City's Congressional Delegation to exempt New York City from the proposal. In August, Senator Schumer and I wrote to HUD Secretary Julian Castro warning the Secretary of the proposal's impact on HCV tenants and families in New York City. While neither Senator Schumer nor I have received a response, I continue stressing to HUD representatives the need to exempt New York City, most recently at a Congressional hearing on September 21.

I thank the Public Housing Committee for holding this oversight hearing and support the resolution that will be discussed this afternoon. The adoption of this resolution by the City Council will continue to compel HUD to exclude New York City, and other cities with a housing vacancy rate below 5 percent, from the proposal.

I thank Councilmember Torres for introducing this legislation and urge its speedy adoption.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Nydia M. Velazquez". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Nydia M. Velazquez  
Member of Congress

# Congress of the United States

Washington, DC 20515

August 12, 2016

The Honorable Julian Castro  
Secretary  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street S.W.  
Washington, D.C. 20410

Dear Secretary Castro:

We write to you on a matter of pressing concern in the administration of the Housing Choice Voucher ("HCV") program in New York City. The Department of Housing and Urban Development's ("the Department") recent proposal to use Small Area Fair Market Rents ("SAFMRs") in New York City is well intentioned, but we are worried the proposal is likely to result in unfavorable outcomes for a number of New York City's tenants and families who currently participate in the HCV program.

The Department's proposal seeks to use SAFMRs in New York City, and other select metropolitan areas around the country, to provide tenants with a more effective means to move into neighborhoods of higher opportunity. Under the proposal, the Department will calculate Fair Market Rents ("FMRs") by ZIP Code, instead of calculating FMRs as a single metropolitan area FMR, in order to more accurately reflect housing sub-markets within a metropolitan region. By calculating FMRs by ZIP Code, the Department hopes that Small Area FMRs will afford HCV tenants and families with a subsidy adequate enough to make higher opportunity neighborhoods more accessible.

We appreciate the Department's desire to encourage and enhance outcomes and opportunities for tenants and families, and the proposal may work well in some localities. However, in the high-cost, extremely low vacancy area of New York City, the proposal is likely to negatively impact a majority of tenants and families participating in the program.

In New York City, the local housing agencies estimate that rental assistance payments would decrease for roughly 56,606 HCV tenants because of the Department's proposal. This means, that within 13 to 24 months of the final rule taking effect, these individuals and families will be expected to move to a higher-income neighborhood, be forced to re-negotiate with their landlord for a lower rent, or assume a significantly higher rent burden in order to stay in their home.

For those tenants and families facing a decrease in their monthly rental assistance payments that may choose to move, these individuals and families are likely to face limited rental options and encounter significant hardship in finding new housing due to the City's extremely low vacancy rate, which currently stands at 3.45%. Some may face financial barriers to moving such as an inability to afford a larger security deposit or associated moving costs. Others may decide to stay in their home, choosing instead to remain close to social, family, or professional networks in their neighborhoods.

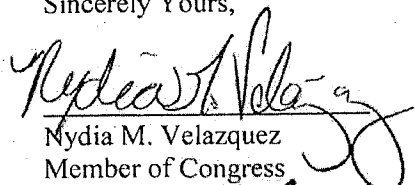
For those tenants and families who choose to stay in their homes, the change to SAFMR will likely result in a reduced voucher subsidy. It is unlikely that landlords will accept lower rents, which will lead many existing tenants and families to face a significantly higher rent burden just to stay in their home. One estimate anticipates that in some ZIP Codes around the City the average rent burden will rise by as much as \$403 per month. Further, lowered voucher subsidies may drive some landlords who currently accept vouchers to leave the Department's program all together, resulting in displacement of current voucher households and a further reduction of rental units affordable to those individuals and families who need them the most.


At the other end of the spectrum, rental markets across the five boroughs where SAFMRs will be greater than currently published FMR levels, the net result would likely be an increase in per capita spending for each unit of HCV assistance. At a time when budget authority is already insufficient to support the existing number of New York City tenants and families participating in the program, the rise in the subsidy cost per household is likely to further reduce the number of tenants and families that can be assisted by the program overall.

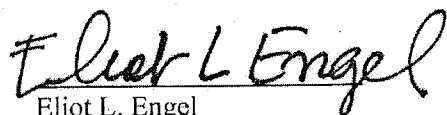
Any final rule adopted by the Department must limit the harm to those existing tenants and families currently participating in the HCV program. In an extremely tight rental market like New York City, the final rule should not force those individuals and families most in need of rental assistance to choose between facing a higher rent burden and leaving their home. In response to the Department's request for public comment, a number of New York City's housing agencies, tenant-based organizations, and housing experts have all submitted a number of forthright and constructive ideas and recommendations for improving the Department's proposal. We urge the Department to review each and every one of those ideas carefully and include their recommendations in adoption of the final rule to ensure New York City HCV tenants and families are not significantly impacted by a substantial and abrupt decrease in FMRs.

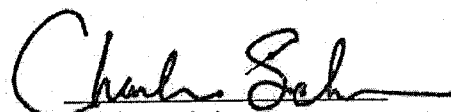
Providing low-income individuals and families with more housing options, especially in high-opportunity neighborhoods is something we should all strive to achieve with the HCV program. But program changes should not be implemented that will negatively impact New York City individuals and families who choose not to or who are unable to move.

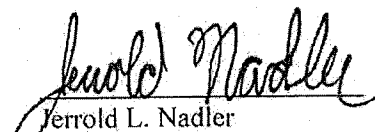
Sincerely Yours,

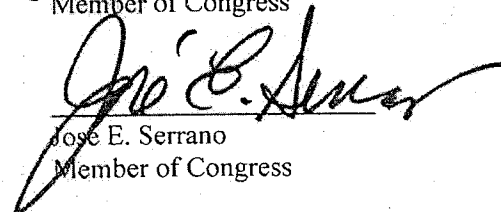
  
Nydia M. Velazquez  
Member of Congress

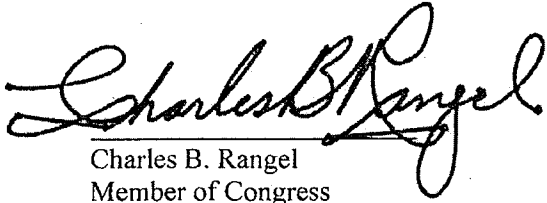
  
Kirsten E. Gillibrand  
United States Senator

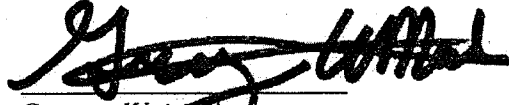
  
Eliot L. Engel  
Member of Congress

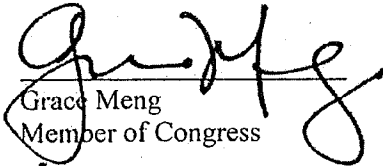
  
Charles E. Schumer  
United States Senator

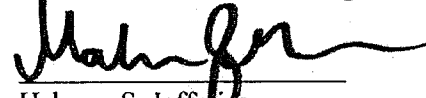
  
Jerrold L. Nadler  
Member of Congress

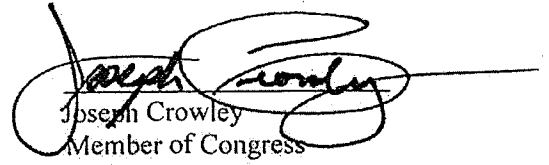
  
Jose E. Serrano  
Member of Congress

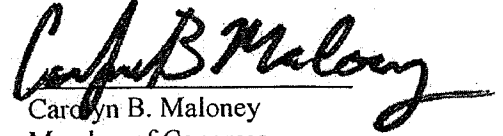
  
Charles B. Rangel  
Member of Congress

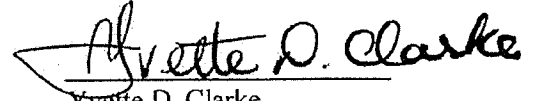
  
Gregory W. Meeks  
Member of Congress

  
Grace Meng  
Member of Congress

  
Hakeem S. Jeffries  
Member of Congress

  
Joseph Crowley  
Member of Congress

  
Carolyn B. Maloney  
Member of Congress

  
Yvette D. Clarke  
Member of Congress



**STATE SENATOR  
DANIEL SQUADRON**  
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**Testimony of New York State Senator Daniel Squadron and  
Assemblymember Brian Kavanagh before the  
New York City Council Committee on Public Housing on the  
United States Department of Housing and Urban Development's  
Proposed Small Area Fair Market Rent Rule**

**October 5, 2016**

We are Daniel Squadron, the New York State Senator representing the 26th Senate District including parts of Brooklyn and Manhattan, and Brian Kavanagh, the New York State Assemblymember representing the 74th Assembly District on the East Side of Manhattan.

We would like to thank Public Housing Committee Chair Torres, as well as the other members of the committee, for this opportunity to offer testimony on the Small Area Fair Market Rent (SAFMR) rule proposed by the Department of Housing and Urban Development (HUD) for the Housing Choice Voucher program. We would like to take this opportunity to voice our serious concerns about the effect that the proposed SAFMR rule will have on cities with low vacancy rates, such as ours.

While we support HUD's goal of improving the Housing Choice Voucher program by addressing high concentrations of poverty in particular neighborhoods that may be exacerbated by the current rules in some cities, we fear that the proposed SAFMR rule will not achieve HUD's goal in cities like New York, where low vacancy rates, particularly for affordable housing, will continue to prevent tenants from moving into high-opportunity neighborhoods. We think the proposed rule is especially unlikely to serve its intended purpose if implementation is not accompanied by a significant increase in funding, and we note that no such increase is being contemplated at present. As discussed below, we are also concerned that the proposed SAFMR rule does not accurately reflect market conditions in New York and perhaps other cities that are densely populated and have a large number of economically diverse neighborhoods that are rapidly changing. Until these concerns are addressed, implementation of the proposed rule should be delayed in New York City, and any other similarly situated city.

As we understand it, the proposed SAFMR rule is intended to address issues created by the current method used to calculate the payment standards for the Housing Choice Voucher program. Under the current rules, payment standards are determined annually for individual metropolitan areas. Having a single payment standard for an entire metropolitan area may increase the likelihood that voucher holders will be concentrated in low-rent neighborhoods within a metropolitan area, because that is where the vouchers have the most value; this may, in turn, increase concentrations of low-income households in areas with low rents. The proposed

SAFMR rule seeks to address this problem by calculating different payment standards for each zip code within a metropolitan area, increasing the payment standard in those identified as “high-opportunity” neighborhoods and decreasing the payment standard in those identified as “low-opportunity” neighborhoods. The desired outcome is that voucher holders will be enabled and encouraged to move out of low-opportunity neighborhoods, where the amount of rent covered by their vouchers will decrease, and into areas of greater opportunity, where they would receive larger vouchers. While we are supportive of HUD’s ends, we do not believe that the proposed SAFMR rule, as applied to New York City, would achieve them. Further, we are concerned that the proposed SAFMR rule would, in practice, have an extremely negative impact on those of our constituents participating in the Housing Choice Voucher program who would see the value of their voucher decline because they currently reside in areas that would be designated as low-opportunity neighborhoods.

We understand that in developing the proposed SAFMR rule, HUD relied heavily on research based on the Dallas-Fort Worth Metropolitan Area (DFW). While the DFW study does show positive results, there are several key differences between the New York City and DFW housing markets that we believe would prevent the new rule from having such a favorable effect in our city, and others that are similarly situated.

For the purposes of the proposed SAFMR rule, the most significant difference between cities’ housing markets that we believe HUD has failed to account for adequately is their vacancy rate for rental units. In cities with low vacancy rates, tenants have greater barriers to mobility than they do in cities with high vacancy rates. Because there is a lack of available units in high-opportunity neighborhoods in cities with low vacancy rates, rents in these areas are extremely high, especially for new renters. Due to the particularly high rents and low availability of apartments in cities with low vacancy rates, increasing the payment standard will not create the same level of opportunity for voucher holders to move into high-opportunity neighborhoods as it did in Dallas, a city that does not have a low vacancy rate.

Moreover, in New York and other cities with low vacancy rates, decreases in the payment standard in low-opportunity neighborhoods will not necessarily lead to the lowering of rents in these neighborhoods, because the demand for housing is so high that landlords will be able to find a new tenant willing to pay the current rent, without a voucher if necessary, far more often than they would in a city with a higher vacancy rate. This would leave many voucher holders in cities with low vacancy rates in a far worse situation than they are currently in, as they would no longer be able to continue paying the rent in their current neighborhood because of the decreased payment standard, but would be unable to find housing in neighborhoods where the payment standard has increased due to the lack of availability. This could lead to involuntary displacement of tenants currently residing in low-opportunity neighborhoods, and perhaps homelessness.

New York, in conjunction with the United States Census Bureau, completes a survey of New York City’s housing market every three years. The most recent survey, conducted in 2014, found that New York had a vacancy rate of only 3.5%, less than half the national average of 7.6% identified by the Census Bureau in the same year. This low level of vacancy leads to a situation where affordable housing is extremely difficult to find. Even under the current rules for

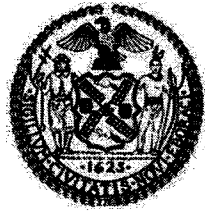
calculating the payment standard, which, under the rationale for the proposed SAFMR rule, should be creating over-subsidized housing in New York City's low-opportunity neighborhoods, 25% of voucher holders who move lose their voucher due to an inability to find an available apartment. If the payment standards are lowered in low-rent neighborhoods, there will likely be even fewer options available for movers and, contemporaneously, a larger number of movers, as voucher holders can no longer afford to maintain their current housing situation due to the decrease in the value of their voucher.

While the "Housing Opportunity Through Modernization Act of 2016" (HOTMA), which was signed into federal law by the President in July, attempts to address some of these issues, we do not believe that it offers a meaningful solution to the problem without a significant increase in funding. Under HOTMA public housing agencies are permitted to "grandfather" in voucher holders living in areas where the payment standard is reduced at their current rate. However, without a significant increase in funding, New York City's public housing agencies will not be able to continue covering the cost of maintaining the current payment standards of all current voucher holders while at the same time issuing new, high-cost vouchers to those attempting to move into "high-opportunity" neighborhoods. This could potentially have the opposite outcome than the program intended, as New York City's public housing agencies would be unable to fund moves into "high-opportunity" areas, ultimately reducing mobility for voucher holders.

In addition to the low vacancy rate, there are other differences in New York City's housing market that would need to be addressed in order for HUD to achieve the goal of the proposed SAFMR rule. New York is densely populated and many of its neighborhoods are very economically diverse and constantly changing as a result of gentrification. Based on HUD's hypothetical SAFMRs for Fiscal Year 2017, which demonstrate what the payment standards would be in this Fiscal Year in New York City zip codes if the proposed SAFMR rule were in effect, the methodology for calculating the payment standards fails to adequately account for these changes. For example, the hypothetical SAFMRs for the 10002 zip code, which overlaps with our respective legislative districts, in Manhattan's Lower East Side, would decrease significantly compared to the current payment standard. The voucher for a two-bedroom apartment would be reduced from \$1,637 a month to \$1,250 a month, a difference of \$387 a month or \$4,644 a year. This is despite the fact that this neighborhood has undergone significant transformations in recent years and is widely considered a desirable place to live. Given the rapid rate at which things change in New York City, HUD's calculations would need to reflect the current situation in any given neighborhood for the plan to have its desired outcome.

We have communicated our concerns and our request that New York City be exempted from the SAFMR rule in a letter to HUD, a copy of which can be found attached at the end of this testimony, on which were joined by fifty-two state and city elected officials. We strongly support Councilmember Torres' resolution calling on HUD to exempt cities with a vacancy rate of less than five percent, like New York, from the SAFMR rule. To move forward with the proposed SAFMR rule in New York City without alterations to account for the differences in our housing market, particularly those created by our low vacancy rate, would potentially have an enormous adverse impact on our constituents who are voucher holders.

Thank you again for the opportunity to offer these comments.



August 26, 2016

Julián Castro, Secretary  
United States Department of Housing  
and Urban Development  
451 7th Street SW  
Washington, DC 20410

Dear Secretary Castro:

As state and local elected representatives from New York City, we write to voice our serious concerns about the effect that the Small Area Fair Market Rent (SAFMR) rule proposed by the Department of Housing and Urban Development (HUD) for the Housing Choice Voucher program will have on cities with low vacancy rates, such as ours.

We hope that you will consider excluding New York City and perhaps other cities with very low vacancy rates from the SAFMR rule unless the rule can be significantly altered to address our concerns, which we list below.

We support HUD's goal of improving the Housing Choice Voucher program by addressing the problem of high concentrations of poverty that current rules may exacerbate in particular neighborhoods of some cities. But we fear that the proposed SAFMR rule will not achieve HUD's goal in cities like New York, where low vacancy rates, particularly for affordable housing, will continue to prevent tenants from moving into high-opportunity neighborhoods. We think the proposed rule is especially unlikely to serve its intended purpose if implementation is not accompanied by a significant increase in funding, and we note that no such increase is being contemplated at present. As discussed below, we are also concerned that the proposed SAFMR rule does not accurately reflect market conditions in New York City and perhaps other cities that are densely populated and have a large number of economically diverse neighborhoods that are rapidly changing. Until these concerns are addressed, implementation of the proposed rule should be delayed in New York City, and any other similarly situated city.

As you know, the proposed SAFMR rule is intended to address issues created by the current method used to calculate the payment standards for the Housing Choice Voucher program. Under the current rules, payment standards are determined annually for individual metropolitan areas. Having a single payment standard for an entire metropolitan area may increase the likelihood that voucher holders will be concentrated in low-rent neighborhoods within a metropolitan area, because that is where the vouchers have the most value; this may, in turn,

increase concentrations of low-income households in areas with low rents. The proposed SAFMR rule seeks to address this problem by calculating different payment standards for each zip code within a metropolitan area, increasing the payment standard in those identified as “high-opportunity” neighborhoods and decreasing the payment standard in those identified as “low-opportunity” neighborhoods. The desired outcome is that voucher holders will be enabled and encouraged to move out of low-opportunity neighborhoods, where the amount of rent covered by their vouchers will decrease, and into areas of greater opportunity, where they would receive larger vouchers. While we are supportive of HUD’s ends, we do not believe that the proposed SAFMR rule, as applied to New York City, would achieve them. Further, we are concerned that the proposed SAFMR rule would, in practice, have an extremely negative impact on those of our constituents participating in the Housing Choice Voucher program who would see the value of their voucher decline because they currently reside in areas that would be designated as low-opportunity neighborhoods.

We understand that in developing the proposed SAFMR rule, HUD relied heavily on research based on the Dallas-Fort Worth Metropolitan Area (DFW). While the DFW study does show positive results, there are several key differences between the New York City and DFW housing markets that we believe would prevent the new rule from having such a favorable effect in our city, and others that are similarly situated.

For the purposes of the proposed SAFMR rule, the most significant difference between cities’ housing markets that we believe HUD has failed to take into account is the large variation in vacancy rates for rental units among different cities. In cities with low vacancy rates, tenants have greater barriers to mobility than they do in cities with high vacancy rates. Because there is a lack of available units in high-opportunity neighborhoods in cities with low vacancy rates, rents in these areas are extremely high, especially for new renters. Due to the particularly high rents and low availability of apartments in cities with low vacancy rates, increasing the payment standard will not create the same level of opportunity for voucher holders to move into high-opportunity neighborhoods as it did in Dallas, a city that does not have a low vacancy rate.

Moreover, in New York and other cities with low vacancy rates, decreases in the payment standard in low-opportunity neighborhoods will not necessarily lead to the lowering of rents in these neighborhoods, because the demand for housing is so high that landlords will be able to find a new tenant willing to pay the current rent, without a voucher if necessary, far more often than they would in a city with a higher vacancy rate. This would leave many voucher holders in cities with low vacancy rates in a far worse situation than they are currently in, as they would no longer be able to continue paying the rent in their current neighborhood because of the decreased payment standard, but would be unable to find housing in neighborhoods where the payment standard has increased due to the lack of availability. This could lead to involuntary displacement of tenants currently residing in low-opportunity neighborhoods, and perhaps homelessness.

New York, in conjunction with the United States Census Bureau, completes a survey of New York City’s housing market every three years. The most recent survey, conducted in 2014, found that New York had a vacancy rate of only 3.5%, less than half the national average of 7.6% identified by the Census Bureau in the same year. This low level of vacancy leads to a situation

where affordable housing is extremely difficult to find. Even under the current rules for calculating the payment standard, which, under the rationale for the proposed SAFMR rule, should be creating over-subsidized housing in New York City's low-opportunity neighborhoods, 25% of voucher holders who move lose their voucher due to an inability to find an available apartment. If the payment standards are lowered in low-rent neighborhoods, there will likely be even fewer options available for movers and, contemporaneously, a larger number of movers, as voucher holders can no longer afford to maintain their current housing situation due to the decrease in the value of their voucher.

The June 16, 2016 Notice in the Federal Register on the proposed SAFMR rule states: "The proposed rule provides for Small Area FMR area selection parameters to be codified in regulatory text. HUD is seeking comment on whether these parameters should be codified or should be incorporated into each annual proposed FMR notice to provide HUD, PHAs [Public Housing Authorities], and other stakeholders with flexibility, in any given fiscal year, to offer changes to these selection parameters and have the opportunity to comment before any changes to the parameters are made."

Given that a low vacancy rate in a metropolitan area is likely to impinge on the proposed SAFMR rule's stated goal of promoting mobility, we urge HUD to adopt vacancy rate as a codified parameter and to exclude any area with a sustained, extremely low vacancy rate, such as New York City, from SAFMR.

In addition to the low vacancy rate, there are other differences in New York City's housing market that would need to be addressed in order for HUD to achieve the goal of the proposed SAFMR rule. New York City is densely populated and many of its neighborhoods are very economically diverse and constantly changing as a result of gentrification. Based on HUD's hypothetical SAFMRs for 2016, which demonstrate what the payment standards would have been this year in New York City zip codes if the proposed SAFMR rule had been in effect, the methodology for calculating the payment standards fails to adequately account for these changes. For example, the hypothetical SAFMRs in zip codes located in the Manhattan neighborhoods of Harlem (10027, 10030, 10037, and 10039) and the Lower East Side (10002) decreased, despite the fact that these neighborhoods have undergone significant transformations in recent years and are widely considered desirable—and relatively expensive—neighborhoods to move to. Given the rapid rate at which things change in New York City's housing market, HUD's calculations would need to reflect the current situation in any given neighborhood for the plan to have its desired outcome.

We strongly request that HUD exclude New York City from the SAFMR rule until a rule can be devised that adequately addresses the issues we have raised. To move forward with the proposed SAFMR rule in New York City without alterations to account for the differences in our housing market, particularly those created by our low vacancy rate, would potentially have an enormous adverse impact on our constituents who are voucher holders.

Finally, the HUD Notice asks: "Should HUD provide for PBVs [project based vouchers] that are in the pipeline to continue using metropolitan FMRs even if the area is designated as a Small

Area FMR area? Additionally, should HUD require newly proposed PBVs post Small Area FMR designation to use Small Area FMRs?"

Project-Based Section 8 is a vital tool employed by the two key New York City Public Housing Agencies—the NYC Housing Authority (NYCHA) and NYC Department of Housing Preservation and Development (HPD). If the proposed SAFMR rule were applied to PBVs, the value of many project-based contracts used to finance construction projects would fall in areas where the payment standard would be reduced, in turn reducing the amount of financing these agencies could secure for development and rehabilitation of affordable housing. On the other hand, in areas where the payment standard would increase, opportunities for development tend to be scarce. As articulated more fully in these agencies' formal comments, they believe the net effect of the proposed SAFMR rule would be to hinder their ability to build and preserve existing affordable housing. We therefore join NYCHA and HPD in calling for current and future PBV developments in New York City to be allowed to use the metropolitan FMR going forward even if the proposed SAFMR rule is otherwise adopted in New York City.

While we are critical of this particular initiative, we thank you and your colleagues in President Obama's administration, as always, for all that you do to promote strong, sustainable, affordable communities in New York City and throughout the country, and we appreciate your consideration of our perspective. We look forward to discussing these issues further with you and your staff. To follow up, please contact any of us directly or via Andrew Hendrickson in Assemblymember Brian Kavanagh's office at 212-979-9696 or Hendrickson.AD74@gmail.com, or via Hally Chu in Manhattan Borough President Gale Brewer's office at 212-669-8300 or hchu@manhattanbp.nyc.gov.

Sincerely,



Gale A. Brewer  
Manhattan Borough President



Brian Kavanagh  
New York State Assemblymember



Letitia James  
Public Advocate for the City of New York



Eric L. Adams  
Brooklyn Borough President



Melinda Katz  
Queens Borough President



Jesse Hamilton  
New York State Senator



Brad Hoylman  
New York State Senator



Liz Krueger  
New York State Senator



Bill Perkins  
New York State Senator



Roxanne Persaud  
New York State Senator



José M. Serrano  
New York State Senator



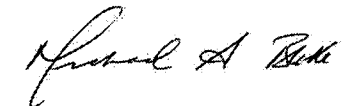
Daniel L. Squadron  
New York State Assemblymember



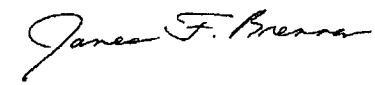
Charles Barron  
New York State Assemblymember



Michael Benedetto  
New York State Assemblymember



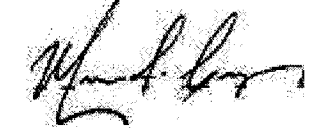
Michael Blake  
New York State Assemblymember



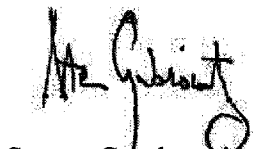
James F. Brennan  
New York State Assemblymember



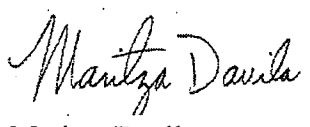
Vivian E. Cook  
New York State Assemblymember



Marcos A. Crespo  
New York State Assemblymember



Steven Cymbrowitz  
New York State Assemblymember



Maritza Davila  
New York State Assemblymember



Richard N. Gottfried  
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Latoya Joyner  
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Ron Kim  
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Michael Miller  
New York State Assemblymember





Walter T. Mosley  
New York State Assemblymember



Félix W. Ortiz  
New York State Assemblymember



Dan Quart  
New York State Assemblymember



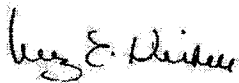
Linda B. Rosenthal  
New York State Assemblymember



Rebecca A. Seawright  
New York State Assemblymember



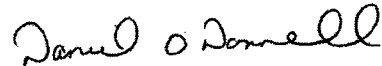
Andrew Cohen  
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Inez E. Dickens  
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Daniel J. O'Donnell  
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Victor M. Pichardo  
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Robert J. Rodriguez  
New York State Assemblymember



Nily Rozic  
New York State Assemblymember




Helene E. Weinstein  
New York State Assemblymember



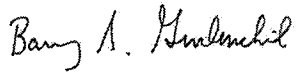
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New York City Council



Rafael Espinal  
New York City Council



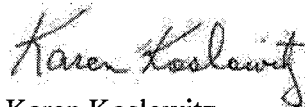
Vanessa L. Gibson  
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Barry S. Grodenchik  
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Benjamin Kallos  
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Karen Koslowitz  
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Carlos Menchaca  
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Annabel Palma  
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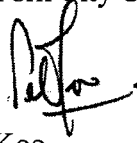
Helen Rosenthal  
New York City Council



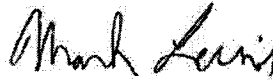
Jumaane D. Williams  
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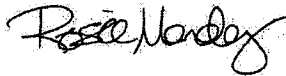
Corey Johnson  
New York City Council



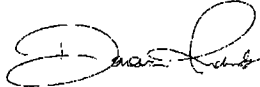
Peter Koo  
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Mark D. Levine  
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Rosie Mendez  
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Donovan Richards  
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cc: Holly M. Leicht, Regional Administrator, U.S. Department of Housing  
and Urban Development



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Seymour W. James, Jr.  
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*Attorney-in-Charge*  
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**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE  
ON PUBLIC HOUSING  
OCTOBER 5, 2016**

Thank you Chairperson Torres, and members of the Committee on Public Housing, for the opportunity to provide testimony today.

This testimony is submitted on behalf of The Legal Aid Society. The Society is the oldest and largest program in the nation providing direct legal services to low-income families and individuals. The mission of the Society's Civil Practice is to improve the lives of low-income New Yorkers by providing legal representation to vulnerable families and individuals to assist them in obtaining and maintaining the basic necessities of life — housing, health care, food and subsistence-level income or self-sufficiency. The Society's legal assistance focuses on enhancing individual, family and community stability by resolving a full range of legal problems in the areas of housing and public benefits, foreclosure prevention, immigration, domestic violence and family law, employment, elder law, tax law, community economic development, health law and consumer law

Thank you Chair Torres for holding an oversight hearing on the United States Department of Housing and Urban Development's ("HUD") proposed rule on Small Area Fair Market Rents ("SAFMR) for the Section 8 program. This proposed rule would have a devastating impact on New York City's Section 8 tenants. Additionally, we strongly support Resolution 1231-2016 which calls upon HUD to exclude New York City and other cities with housing vacancy rates below 5% from HUD's proposed SAFMR rule.

On August 15, 2016, the Legal Aid Society, along with Community Service Society and the New York Housing Conference submitted comments on the Proposed Rule. Those comments were endorsed by forty seven housing groups in New York City. Those endorsers are Associated Builders and Owners of Greater New York, Association for Neighborhood & Housing Development (ANHD), Barrier Free Living, Benchmark Title Agency, Brooklyn Defender Services, Center for Independence of the Disabled (CIDNY), Coalition for the Homeless, Community Action for Safe Apartments (CASA), Community Voices Heard, Cooper's Square Committee, Diego Beekman Mutual Housing Association, HDFC, Dunn Development Corp., Fifth Avenue Committee, Flatbush Tenants Coalition, Fund for Public Housing, Goddard Riverside Law Project, HAP Investments, HOMECONNECT, Homeless Services United, Housing Conservation Coordinators (HCC), Housing Court Answers, JASA/Legal Services for the Elderly in Queens, Legal Services NYC, Lenox Hill Neighborhood House, Make the Road NY, MFY Legal Services, Mutual Housing Association of New York (MHANY), Nazareth Housing Inc., Neighborhood Restore HDFC, Neighbors Helping Neighbors, New Destiny Housing Corporation, New York Affordable Housing Management Association (NYAHMA), New York Communities for Change, New York Legal Assistance Group (NYLAG), Northern Manhattan Improvement Corporation (NMIC 0, NYC Housing Partnership, NYSAFAH, Shinda Management Corporation, Tenants & Neighbors, The Bronx Defenders, United Cerebral Palsy of NYC, Urban Homesteading Assistance Board, Urban Justice Center—Community Development Project, Urban Justice Center – Safety Net Project, Vocal NY, Volunteers of Legal Services, West End Residences HDFC, Inc..

I have attached our comments in response of HUD's proposed SAFMR rule which detail our concerns that if implemented as currently proposed, HUD's rule would have significant adverse impacts on New York City's Section 8 tenants.

October 5, 2016

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Thank you for the opportunity to testify before this committee on this important resolution. We strongly support in support of Resolution 1231-2106 and look forward to working with you and your committee.

Respectfully submitted,

Ellen Davidson, Esq.  
The Legal Aid Society  
Law Reform Unit  
199 Water Street, 3<sup>rd</sup> Floor  
New York, NY 10038  
(212) 577-3339

Docket Number: HUD-2016-0063

Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs

**Comments of Community Service Society, The Legal Aid Society and  
the New York Housing Conference**

endorsed by 47 organizations listed on page 14.

These comments have been prepared by Community Service Society, Legal Aid and the New York Housing Conference and they are endorsed by the organizations listed below. Collectively, we thank the United States Department of Housing and Urban Development (HUD) for the opportunity to comment on the proposed rule to use Small Area Fair Market Rents (SAFMR) for the Housing Choice Voucher program. HUD's stated purpose in the proposed Rule is to provide voucher holders with a more effective means to move into areas of higher opportunity and lower poverty areas. We commend HUD for taking steps to improve the Housing Choice Voucher program by seeking to achieve improved mobility for families and to deconcentrate poverty in low-income communities. We support HUD's goals of deconcentrating poverty and promoting greater mobility. We strongly believe that tenants who want to move into areas of higher opportunity should be given enhanced tools to do so. However, without a significant budget increase, we have some serious concerns that the rule as currently proposed will result in unfavorable outcomes for the Section 8 voucher holders in low-vacancy metropolitan areas like New York City and may not achieve the mobility objectives of the proposed rule. HUD's proposed rule as currently conceived would lead to 55,000 New York City voucher holders households to face rents that are higher than the maximum payment standard for their zip code. After providing background on the New York housing market and examining HUD methodology for criteria, we outline concerns and make recommendations to improve this proposal.

**Landscape of rental housing in NYC**

New York City is a city of renters where approximately two-thirds of all New Yorkers rent their homes.<sup>1</sup> About one million or about half of all rental apartments are covered under New York's rent stabilization system.<sup>2</sup> As part of the rent stabilization system, New York, through the United States Census Bureau, completes a tri-annual survey of New York City's housing market. In the most recent report, the Housing and Vacancy Survey of 2014, determined New York City's vacancy rate was 3.45%,<sup>3</sup> by surveying rents and incomes from three months in 2014. Apartments are even harder to come by at the lower end of the market -- for units with rents of less than \$800 the vacancy rate is just 1.8%, while the rate for units asking above \$2,500 is 7.32%.

In addition to an extremely low-vacancy rate, New York renters also suffer from high rent burdens. Over 50 percent of renter households pay more than 30% of their income towards their rent and almost 30% of renter households pay more than 50% of their income toward their

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<sup>1</sup> Elyzabeth Gaumer, Dr. Sheree West, City of New York Department of Housing Preservation and Development, *New York City Housing and Vacancy Survey (HVS)*, 1.

<sup>2</sup> *Id.* at 2

<sup>3</sup> *Id.* at 3.

SAFMR be revised to reflect current market conditions in New York City's rapidly gentrifying neighborhoods which are no longer properly classified as low opportunity neighborhoods with significant decreased payment standards. Absent such revision, low-income tenants in these neighborhoods will have to move and thus forgo the increased opportunity that these neighborhoods have experienced due to increased investment and new amenities. Until such revision is made and there is a greater understanding of New York's current market conditions, we recommend that HUD delay implementation of the proposed rule. Third, we recommend that HUD hold harmless all current tenants. Our analysis shows that should the proposed rule be implemented in its current form, 55,606 households in New York City would see their payment standards decrease and would be left with a choice of paying significantly more than 30% of their income in rent or risking the loss of their voucher while trying to transfer to another more affordable apartment. Because of New York City's affordable housing crisis, there is nowhere for these displaced tenants to go. Fifty-two percent of impacted households are elderly, disabled or both, who will be especially affected by this new rule. There must be protections put into place to ensure that they do not face challenges in remaining housed. We also recommend project based vouchers be exempt from these new rules. Finally, we recommend that HUD delay implementation until a significant budget is available to accompany this proposal and also to allow more time to study a more effective approach to achieve stated goals in low-vacancy areas. Each of our recommendations are further discussed below after a discussion of market conditions essential to understanding the recommendations.

### **Background – Market Conditions**

The federal register notice for the Small Area Fair Market Rent proposal describes the purpose of the SAFMR system as establishing “a more effective means for [Housing Choice Voucher] tenants to move into areas of higher opportunity and lower poverty,” but in fact the system can be expected to work through two mechanisms – both a pull mechanism in which higher payment standards for apartments in zip codes with high rents brings those rents into reach for voucher holders and a push mechanism in which lower payment standard in zip codes with lower rents make it harder for voucher holders to obtain and retain apartments there.

Because areas with higher rents are expected to have lower poverty rates and better supports for economic opportunity, such as better schools and lower crime rates, the combined effect of these pull and push mechanisms is expected to benefit voucher holder households. But it remains important to understand that the design of the proposed policy creates burdens as well as benefits for voucher holders. And it is particularly important to note that the balance between the burdens and benefits is likely to be affected by the housing market conditions in particular cities.

The most troubling outcome of increased burdens on voucher holders is increased risk of being unable to find an apartment and having to return the voucher after the end of the maximum allowed search period (which varies by voucher-issuing agency). In 2001, a HUD-commissioned study found that the national success rate for voucher holders' efforts to lease an apartment was only 69 percent [above you use % and here you spell out - you could make consistent], while the rates in New York City and Los Angeles were only 57 percent and 47 percent respectively. The study also found that success rates were lower in cities with tighter housing markets. Currently

	New York	Boston	Los Angeles	Dallas	Atlanta	Houston	US Metro Areas
Renter share in central city, 2014	66%	64%	60%	51%	55%	46%	49%
Vacancy rate, 2014	5%	5%	4%	8%	10%	9%	8%
Growth of rental stock, 2006 to 2014	11%	11%	12%	25%	26%	28%	18%
Median gross rent, 2014	\$1,280	\$1,250	\$1,310	\$950	\$980	\$940	\$970
Share of recently available apartments affordable to median renter, 2014	22%	26%	21%	50%	37%	48%	35%
Increase in real center city median gross rent, 2006 to 2014	15%	6%	9%	2%	2%	1%	5%
Share of renters who have moved in last year, 2014	15%	26%	20%	33%	33%	32%	29%
Excess of median rent for recent movers over other renters, 2014	20%	27%	17%	2%	4%	7%	4%

Source: Ellen and Karfinkel 2016, except share of renters who moved in last year-CSS analysis of ACS 2010-2014 Five-Year Sample table from American Factfinder and excess of median rent for recent movers calculated by CSS from table in Ellen and Karfinkel 2016.

All of these variables suggest a much tighter market in New York, Boston, and Los Angeles – and one where it would be particularly difficult for voucher holders to find a new apartment in order to either take advantage of higher payment standards in high-rent zip codes or respond to a decrease in their zip code’s payment standard below their current rent.

The share of renters who moved in the last year and the excess of rent for recent movers over other renters are particularly significant because they illustrate the depth of hardship involved in moving for low-income households in these cities. When such tenants move, they rarely find new apartments as affordable as the ones they leave behind. If decreased payment standards under a SAFMR system prompt them to move, they will have little chance of finding apartments in any low-rent zip codes, making them extremely vulnerable to any discrimination or other barrier to accessing apartments in higher-rent zip codes with higher payment standards.

### **Recommendation One: Add Vacancy Rate to SAFMR Methodology**

The implementation of SAFMRs will be challenging in tight rental markets with low vacancy rates where renters in general find it difficult to move. If the purpose of the implementation of SAFMRs is to enhance tenants’ opportunities to move, there must be enough apartments to move to. It is therefore essential that, among the criteria HUD uses for selecting SAFMR areas, vacancy rate should be included.

Additionally, one of the assumptions in lowering the SAFMR for current tenants is that in apartments that are over subsidized, landlords will follow the market and lower rents. However,



and thus forgo the increased opportunity that these neighborhoods have experienced due to increased investment and new amenities.

For example, according to HUD's hypothetical, SAFMRs upper Manhattan zip codes, 10039, 10030, 10037, and 10027 encompass the area known as Harlem. Harlem was a historically mixed income, African-American neighborhood. However, in recent years, Harlem has experienced change and gentrification. A study, based on the HVS found that between 2002 and 2014 rents for recent movers increased a shocking 90%.<sup>13</sup> This neighborhood has seen a significant decline in low-income residents, a decrease in African American residents, an increase in college educated high-income residents and an increase in the population of white residents. With this gentrification has followed an increase in amenities and investment and a decrease in crime. This should be a neighborhood that HUD's SAFMRs would encourage low-income voucher holders of color to remain in to gain the benefits of the neighborhood's increasing opportunity. Instead, the SAFMRs for these four zip codes see a significant decrease ranging from a declining payment standard for a two bedroom of \$495 a month for 10039 to a decrease of \$231 for 10027.<sup>14</sup> Similar changes have come to the Lower East Side (10002) where a formerly low-income Hispanic neighborhood has become whiter and higher income. This change in the income mix and racial mix is not reflected in HUD's hypothetical SAFMRs which instead encourage low-income voucher holders to leave the neighborhood by decreasing the payment standard for two bedrooms by \$407. Significantly, neither of these areas have an extreme concentration of voucher holders.

Other issues have been discovered with HUD's hypothetical SAFMRs. One neighborhood that would see a significant decrease in payment standards is Bensonhurst, zip code 11214. Bensonhurst is a low- to middle-income neighborhood in Brooklyn with good schools and low crime rates. It ranks eleventh and twelfth out of 59 for its community district for fourth grade students performing on math and English tests, respectively.<sup>15</sup> It ranks 53<sup>rd</sup> out of 59 in crime rates.<sup>16</sup> Yet the hypothetical SAFMRs would decrease the payment standard here by \$242 a month. Indeed, the whole area of South Brooklyn contains neighborhoods designated by NYC as high-opportunity school districts. However, the hypothetical SAFMR incentivizes voucher tenant to leave these neighborhoods with good schools. Other areas in Brooklyn that are beginning to see the changes brought by gentrification would see decreases such as Williamsburg/Bushwick (11206) at \$297 a month, Crown Heights (11213) at \$264 a month, and Prospect Lefferts Gardens (11225) at \$242 a month.

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<sup>13</sup> Thomas J. Waters, Community Service Society, *As Albany Debates Rent Regulation, CSS Analysis Shows Rapidly Rising Rents in Many Parts of City*, June 8, 2015, Slide 3

<sup>14</sup> The analysis comparing current FMR to HUD's hypothetical FMRs made the following assumptions. Currently NYCHA's payment standard for a two bedroom is \$1650. HPD's is \$1697. We used NYCHA's payment standard. Additionally we assumed that both agencies would set the small market payment standard at 110% of the SAFMR.

<sup>15</sup> Austensen, et al., NYU Furman Center. *State of New York City's Housing & Neighborhoods in 2015* Released May 9, 2016, at 98.

<sup>16</sup> *Id.*

proposed shift to SAFMRs would significantly affect these voucher holders. Thirty-one thousand, two hundred and sixty-five (31,265) households will be faced with the choice of moving or paying higher rents. Sixty-three percent of voucher holder households in the Bronx will be affected. Out of the Bronx's 25 zip codes, twenty two will see decreases to the SAFMR. The zip code that will see the largest decrease for two bedroom apartments is 10475, which will see low-income tenants paying almost \$473 a month more to stay in their apartments. Twenty zip codes will see decreases of over \$150 a month. HUD's proposal is intended to be an incentive for these families to leave areas of concentrated poverty but if they do not want to move or are unable to find a cheaper apartment locally or an apartment in a better neighborhood, how will these families afford to pay a greater share of income on rent?

An analysis of apartments with at least two bedrooms on Zillow found 960 apartments renting currently in the Bronx.<sup>19</sup> Comparing the apartments available for rent to the hypothetical SAFMRs for the 25 zip codes in the Bronx, 50 were advertised as being below the payment standards for the applicable zip codes. This means that under the new proposal approximately 5% of the apartments advertised would be available for tenants to use their vouchers.

One of HUD's apparent goals in publishing its proposed rule is to provide tenants with enhanced mobility. To that end, including the Bronx, ninety seven New York City zip codes would see decreases in the SAFMR for two bedrooms ranging between eleven dollars and five hundred and fifty dollars a month. The rest would see either no change or increases up to eight hundred and twenty five dollars a month. We conducted an analysis of apartments with at least two bedrooms on Zillow that were available for rent for the zip codes which would see increases. The analysis assumed that rents of up to fifty dollars above the payment standard would be approved by New York City's public housing authority. The analysis found 446 apartments available for the 55,606 voucher holder households who will be potentially displaced in New York City. These voucher holders will of course also be competing with families in the private market. In New York, as well as many of the high-rent, low-vacancy metropolitan areas, competition for housing is severe. While local law protects tenants from source of income discrimination, displaced voucher holders may still be at a great disadvantage in this market.

***(b) Adverse Impact on Voucher Holders***

As stated above, this rule would cause 55,606 voucher holders in New York City to face the choice of finding a new apartment, and risk losing their voucher if their search is unsuccessful or paying an increase in rent to stay in their current neighborhood and risk eviction if they cannot afford to pay the increase. New York City voucher programs have an unusually high proportion of elderly and disabled households who are adult households. Indeed, 52% of the affected households are designated elderly or disabled or both. 63% of New York City voucher households have no children.<sup>20</sup> The great benefits of mobility described by Raj Chetty are felt by children under the age of 13. For children above the age of 13, mobility shows little or even

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<sup>19</sup> All apartments that had been on the Zillow website for more than sixty days were excluded from this analysis.

<sup>20</sup> HUD's Picture of Subsidized Households for Bronx County 2015.

(c) Negative Impact on Volume of Rent Stabilized Stock

Many neighborhoods that have been affordable for years are now facing extreme market pressures as land prices and rents are both on the rise across the five boroughs. At present, one million of New York City's three million housing units are rent-stabilized under New York State rent laws. Tenants living in rent stabilized units are afforded protections for rent increases and lease renewals under the law. Sixty-one percent of New York City's voucher tenants live in rent stabilized housing.<sup>26</sup> This means that they have the right to a renewal lease and limits on increases on yearly rents. Many of these tenants have lived in their homes for many years.<sup>27</sup> If the proposed HUD rule effectively incentivizes existing tenants of rent-stabilized units to move, an unintended consequence could be the deregulation of rent-stabilized units. Even if these apartments do not become deregulated, the landlords will be able to increase the legal rents on these apartments by at least 20% impacting affordability in low-income neighborhoods for all renters. A recent report found that the largest contributor to rent increases in rent regulated apartments is the statutory vacancy allowance which provides an automatic increase every time an apartment is vacant.<sup>28</sup> In addition, New York landlords are permitted to charge additional significant increases based on improvements after vacancy. New York City has rent stabilization because our legislature has determined that so long as our vacancy rate is under 5%, New York City's housing market must be regulated to protect tenants. So unlike other jurisdictions where if the market rent is lower than the "legal rent," the rent on the apartment would decrease, in New York's rent stabilized apartments, landlords offer tenants a preferential rent, lower than the legal rent. However, the legal rent may be charged at the end of every renewal lease. This lessens the protections for rent stabilized tenants who are no longer secure in their tenancy.

We have seen further evidence of the pressure to deregulate rent-stabilized housing in the a troubling pattern among some owners who deliberately allow apartments to fail the housing quality standards inspection and then simply wait for the subsidy to end and the contract to cancel. Tenants are then forced to move out of their homes to preserve their Section 8 subsidies. These tenants have found it incredibly difficult to secure new housing after been forced out of their homes. Because these tenants are rent stabilized, under the law, their landlord is required to offer a renewal lease on the same terms and conditions as the previous lease. However, some landlords have found a loophole to this requirement by using the Section 8 program to force tenants out of their homes. These landlord then benefit by charging vacancy increases of at least twenty percent to the next tenant. Based on this example we have little reason to expect that rent stabilized landlords will lower contract rents in their apartments to reflect HUD's assumptions of what market rents are. In many gentrifying neighborhoods, low-income long term tenants are able to remain in their neighborhoods because of their Section 8 voucher. Because the hypothetical SAFMRs incentivize tenants to move from these neighborhoods, the rule would have the unintended consequence of hastening gentrification and displacement from

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<sup>26</sup> Analysis of the Community Service Society.

<sup>27</sup> An Analysis of the Community Service Society using the HVS showed that in the private market, the median voucher household have moved into its apartment in 2006, the median low income household move into its apartment in 2008 and the median renter household moved into its apartment in 2009.

<sup>28</sup> Victor Bach & Tom Waters, Community Service Society, *Making the Rent 2016: Tenant Conditions in New York City's Changing Neighborhoods*, May 2016 at 2.

that uses federal rental assistance to leverage significant private financing. Without the predictability of rental assistance levels, financial institutions will not be willing to lend to projects with unreliable cashflow. More public subsidy will be required if private debt is not accessible, resulting in less affordable housing.

In some existing projects, the difference between FMR and tax credit rents are used to fund or supplement on-site social services. Lowering Section 8 rents in high-poverty areas could result in reduced services in existing housing, primarily targeted to formerly homeless households to ensure housing stability.

If SAFMRs apply to the project-based program, lower rents could also discourage the development of new projects that could uplift neighborhoods. Investment in affordable housing has transformed areas of Brooklyn, the Bronx, Harlem and the Lower East Side of Manhattan. With significant local commitment to affordable housing, New York City's 10 year housing plan is anticipated to invest \$41 billion in neighborhoods. Due to high land costs, many of these new affordable apartment buildings will be located in low-income communities. Our organizations support continued investment in low-income neighborhoods to provide more housing options for local residents and to spur investment and community revitalization.

**Recommendation Five: Delay implementation Until Program Changes Are Accompanied By A Significant Budget Increase And SAFMR Policy Is Better Calibrated For Low-vacancy Areas**

We strongly support the goals of improving outcomes and housing options for low-income families in high opportunity areas and deconcentrating voucher use in low-income areas. However, New York City's voucher programs make up 21% of the vouchers in this demonstration project, and based on our deep knowledge of the New York City housing market, we strongly recommend that HUD delay implementation of this rule in any low-vacancy areas until there is a greater understanding of housing market conditions in localities such as New York City and a significant budget increase is made so that program benefits for some low-income families are not at the expense of other low-income families. These recommended changes, and the others set forth above, will help HUD to be more successful in reaching the goals behind the rule changes.

**Joint Comments Submitted By:**

- **Community Service Society**, 105 E 22nd St, New York, NY 10003  
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The Community Service Society of New York (CSS) is an informed, independent, and unwavering voice for positive action on behalf of more than 3 million low-income New Yorkers. CSS draws on a 170-year history of excellence in addressing the root causes of economic disparity through research, advocacy, litigation, and innovative program models that strengthen and benefit all New Yorkers.
- **The Legal Aid Society**, 199 Water Street, New York, NY 10038  
Contact: Judith Goldiner, Attorney in Charge, Civil Law Reform, [JGoldiner@legal-aid.org](mailto:JGoldiner@legal-aid.org), 212.577.3332

MFY Legal Services  
Mutual Housing Association of New York (MHANY)  
Nazareth Housing Inc.  
Neighborhood Restore HDFC  
Neighbors Helping Neighbors  
New Destiny Housing Corporation  
New York Affordable Housing Management Association (NYAHMA)  
New York Communities for Change  
New York Legal Assistance Group (NYLAG)  
Northern Manhattan Improvement Corporation (NMIC)  
NYC Housing Partnership  
NYSFAFH  
Shinda Management Corporation  
Tenants & Neighbors  
The Bronx Defenders  
United Cerebral Palsy of NYC  
Urban Homesteading Assistance Board  
Urban Justice Center—Community Development Project  
Urban Justice Center – Safety Net Project  
Vocal NY  
Volunteers of Legal Services  
West End Residences HDFC, Inc.



Testimony of

Chad H. Gholizadeh  
Senior Policy and Advocacy Associate for  
Economic and Housing Stability

Submitted to the

New York City Council  
Committee on Public Housing

**Oversight Hearing:**

**HUD's Proposed Rule on Small Area Fair Market Rents for the Section 8 Program**

**Resolution 1231-2016 calling on the U.S. Department of Housing and Urban Development to exclude New York City, and other cities with a housing vacancy rate below 5%, from the Proposed Rule on Small Area Fair Market Rents**

October 5, 2016

Good morning. My name is Chad H. Gholizadeh and I am the Senior Policy and Advocacy Associate for Economic and Housing Stability at Citizens' Committee for Children (CCC). CCC is a 73-year-old independent, multi-issue child advocacy organization dedicated to ensuring every New York child is healthy, housed, educated and safe.

We would first like to thank City Council Public Housing Committee Chair Ritchie Torres and the members of the Committee on Public Housing for holding today's oversight hearing on the United States Department of Housing and Urban Development's (HUD) proposed rule on small area fair market rents (SAFMR), and for introducing Resolution 1231-2016. CCC supports the resolution, which calls upon the federal government to exempt New York City and other low-vacancy metropolitan areas from the proposed SAFMR rule.

We would also like to thank the Department of Housing Preservation and Development (HPD); the New York City Housing Authority (NYCHA); Speaker Mark-Viverito; Borough President Adams; Chair Torres; Council members Chin, Greenfield, Rose, Cohen, and Cornegy; State Senator Squadron; Assembly member Kavanaugh; and New York State Homes and Community Renewal (HCR) for all submitting comments to HUD opposing the application of the SAFMR rents to New York City.

CCC recommends that the City Council adopt Resolution 1231-2016. While CCC supports HUD's stated goal of assisting families seeking to move to areas of opportunity, the proposed SAFMR rule would not accomplish this goal in New York City. Instead, the proposed rule would adversely affect many low-income families throughout the five boroughs.

The SAFMR rule would replace the city-wide fair market rent, used to determine the maximum subsidy of a Section 8 voucher, with SAFMRs determined by zip code. The impact on New York City would be decreases in the maximum available subsidy in neighborhoods that HUD has designated as 'high poverty' with increases in geographic areas with low concentrations of poverty. In New York City, vouchers are concentrated in geographic areas that will see decreases in rental subsidy.

NYCHA and HPD administer vouchers that assist approximately 120,000 families in New York City and HCR operates an additional 44,000 vouchers statewide.<sup>1</sup> Over 50.71% of families in New York City are rent burdened.<sup>2</sup> Adjusting for inflation, between 2005 and 2015, rents have risen 19.4%, despite incomes only increasing by 5.8%.<sup>3</sup> In addition to being burdened by high rents, New York City's residential rental market has a vacancy rate of only 3.4%.<sup>4</sup> Apartments renting for less than \$1,500.00 a month have even lower vacancy rates of 3.13% or less.<sup>5</sup> Participants in the Section 8 program have been facing challenges finding and moving to new

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<sup>1</sup> Comments submitted to United States Department of Housing & Urban Development by NYC Department of Housing Preservation & Development and New York City Housing Authority, August 15, 2016 (hereinafter "HPD & NYCHA Comments"), p. 1; Comments submitted to United States Department of Housing & Urban Development by New York State Homes and Community Renewal, August 10, 2016, p. 1.

<sup>2</sup> American Communities Survey, 2015.

<sup>3</sup> American Communities Survey, 2015.

<sup>4</sup> Austensen, *et al*, *NYU Furman Center. State of New York City's Housing & Neighborhoods in 2015*, released May 9, 2016, at 53 (available at [http://furmancenter.org/files/sotc/Part\\_2\\_SOCin2015\\_9JUNE2016.pdf](http://furmancenter.org/files/sotc/Part_2_SOCin2015_9JUNE2016.pdf)).

<sup>5</sup> United States Census Bureau, *New York City Housing and Vacancy Survey (2014)*.

apartments because of the high rent in New York City. As the comments submitted by NYCHA and HPD document, only 15% of families with Section 8 vouchers who were authorized to move successfully relocated to a different apartment.<sup>6</sup>

As a result of these market conditions, families affected by the SAFMR rule will experience increased rent burdens as they struggle to remain in their current neighborhood. As Resolution 1231-2016 accurately states, 55,000 vouchers are utilized in geographic areas that will see decreased rental assistance if SAFMRs are implemented, and many of those households will experience rent burden.<sup>7</sup> This negative outcome is compounded by the fact that many affected families reside in geographic areas which, although designated as low opportunity, are experiencing increased investment and rising rents.<sup>8</sup> The SAFMR rule would result in these low income families being forced to leave their neighborhoods, perversely exacerbating gentrification and negatively impacting their housing stability.<sup>9</sup> This negative effect on housing stability has a well-documented relationship with other negative outcomes related to childhood health and development.<sup>10</sup>

In conclusion, CCC is in full support of Resolution Number 1231-2016, calling on HUD to exempt New York City and other metropolitan areas with less than 5% vacancy rates from the proposed SAFMR rule. As discussed above, New York City's high rent and low vacancy residential market is ill-suited to a policy which seeks to increase mobility by decreasing the rents of the most vulnerable New Yorkers. Until a proposed SAFMR rule addresses the unique challenges faced by New York City and other municipalities in the same position, the SAFMR rule should not be applied.

We urge the City Council to vote in favor of this resolution. We look forward to working with our partners in government and our advocacy colleagues to help persuade the federal government to protect New York City's residents.

Thank you for the opportunity to submit this testimony.

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<sup>6</sup> HPD & NYCHA Comments, p. 3.

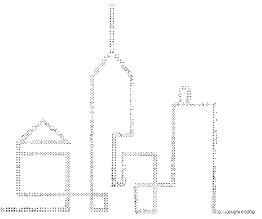
<sup>7</sup> HPD & NYCHA Comments, p. 3.

<sup>8</sup> HPD & NYCHA Comments, p. 7.

<sup>9</sup> HPD & NYCHA Comments, p. 15; Comments submitted to United States Department of Housing & Urban Development by the Community Service Society, The Legal Aid Society, and the New York Housing Conference (hereinafter "CSS, Legal Aid, and NYHC Comments"), pp. 6-7.

<sup>10</sup> CSS, Legal Aid, and NYHC Comments, p. 10.





**Testimony of the  
Supportive Housing Network of New York  
For the New York City Council Hearing on  
US HUD Proposed Rule on Small Area Fair Market Rents  
October 5<sup>th</sup>, 2016**

Good afternoon. My name is Rebecca Sauer, Director of Policy and Planning at the Supportive Housing Network of New York. I am here today to testify in support of the City Council Resolution No. 1231, calling on the U.S. Department of Housing and Urban Development to exclude New York City, and other cities with a housing vacancy rate below 5%, from the Proposed Rule on Small Area Fair Market Rents (SAFMR).

The Supportive Housing Network of New York is a statewide membership organization, representing more than 200 nonprofit agencies that build, operate and provide services in housing for homeless, disabled and at-risk New Yorkers. Our members provide permanent, affordable housing with on-site services, including case management, mental health services, substance abuse counseling and employment programs to over 50,000 households statewide, 32,000 here in New York City. New York continues to lead the nation in the production and innovation of supportive housing, the only proven solution to ending homelessness.

The Network is pleased to join our colleagues from the New York Housing Conference, Association for Neighborhood and Housing Development, and many other affordable housing advocates in supporting the City Council resolution asking that New York City, and other low-vacancy cities, be exempt from the Proposed SAFMR rule. New York City is in a housing emergency with a city-wide vacancy rate of 3.45% and a vacancy rate of only 1.8% for Extremely Low Income (ELI) households. New Yorkers struggle to find affordable housing and landlords willing to accept Section 8 vouchers. The proposed rule would force 55,000 voucher holders living in zip codes where the FMR would decrease to either pay the difference, increasing their rent burden, or attempt to find an available apartment in a city with very few.

***HUD Should Implement a Vacancy Rate Exception***

SAFMRs rely on the fact that there is adequate housing available for voucher holders in high opportunity areas. The incentive to move near high performing schools, jobs, and transportation is meaningless if there is an insufficient supply of housing. For this reason, the final rule should exempt PHAs that lie within areas that have low vacancy rates from mandatory implementation of SAFMRs. In its final rule, HUD should not ignore market conditions that directly affect the rates at which tenants are able to find new housing. In all of its policies, HUD should promote housing stability and security.

We suggest that HUD adopt the following policies regarding vacancy rates: (1) allow PHAs with low vacancy rates to opt-out of SAFMRs, even if they meet HUD's criteria and (2) require PHAs with low vacancy rates that choose to adopt SAFMRs to hold current tenants harmless. HUD should define low vacancy rate as an area with a vacancy

rate of 5% or below. NYC's rate is approximately 3.45%. Vacancy rates below 5% are considered to be at emergency levels.

The number of families that will be forced to make this decision must not be understated. For example, in New York City (NYC) it is estimated by two NYC Housing Authorities (NYCHA and HPD) that about 55,000 individual households will face increased housing costs. While that may be seen as an incentive to move to a high opportunity area, the available apartments in those areas do not exist. NYCHA estimates that only 400 families could find affordable housing in those higher cost areas. While landlords are required to accept Section 8, the reality is that many do not and enforcement is difficult and relies on costly post-rejection law suits.

The ability to develop new project-based sites in "high opportunity areas" will not improve with higher SAFMRs because market conditions in those areas already place the acquisition of property to develop beyond the means of affordable housing developers. The increased capital costs make those neighborhoods too costly for projects to be considered feasible. The net result of this change will lower the amount of affordable and supportive housing that gets built. As New York City is facing the worst crisis in homelessness since the Great Depression, every unit built means one less family in shelter.

In closing, The Network supports the City Council resolution calling on HUD to implement a vacancy rate exemption in adopting the Small Area Fair Market Rent rule.

**Respectfully Submitted By:**

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**Committee on Public Housing  
T2016-5046 Oversight - HUD's Proposed Rule on Small Area Fair Market Rents for  
the Section 8 Program.**

**Testimony of Rachel Fee**

My name is Rachel Fee. I am Executive Director of the New York Housing Conference (NYHC) and I would like to thank Chair Ritchie Torres and members of the Committee on Public Housing for the opportunity to submit comments regarding HUD's Proposed Rule on Small Area Fair Market Rents for the Section 8 Program.

NYHC is a nonprofit affordable housing policy and advocacy organization. We support decent affordable housing for *all* New Yorkers. We analyze public policy, educate and convene stakeholders and raise public awareness regarding New York's need for affordable housing. We are a broad-based coalition comprised of a mix of nonprofit and private developers, owners, managers, professionals, and funders of affordable housing across New York State.

The New York Housing Conference supports the City Council resolution calling on the U.S. Department of Housing and Urban Development to exclude New York City, and other cities with a housing vacancy rate below 5%, from the Proposed Rule on Small Area Fair Market Rents.

While HUD has seen promising outcomes in a Dallas demonstration program, we expect SAFMR will not achieve the same results in high-cost, extremely low-vacancy cities like New York. In fact, HUD's policy proposal could have disastrous consequences for existing voucher holders in New York City as their proposal will raise allowable rents in some zip codes and lower them in others in an effort to more accurately reflect housing sub-markets within a region. This proposal is full of promise and may work well in some localities to deconcentrate use of Section 8 vouchers in high-poverty areas but in a low-vacancy city, there is no where for low-income families to move to.

Our housing agencies estimate that almost half of our 120,000 voucher holders' rental assistance payments would go down. HUD's proposal is made without a Section 8 budget increase, so housing "opportunity" for some low-income families will come at the expense of others. Families who choose to stay in their current homes in high-poverty areas or those who are unable to move, will literally pay the price of higher rents for families using their voucher in more expensive neighborhoods.

Half of impacted households are elderly and/or disabled with average annual income of less than \$15,000- paying higher rent will surely impact the quality of life for these households. In a red hot real estate market which has driven homelessness to all-time heights and a vacancy rate of 3.4%, classified at emergency level by HUD, finding an apartment at all will be a challenge, even in an only marginally lower-poverty neighborhood.

Within 13 to 24 months, 55,000 families would be expected to move to a higher-income neighborhood or remain in place by negotiating a lower rent or by paying more. A higher rent burden is the likely outcome for families who stay. The premise underlying HUD's policy proposal is that landlords will accept lower rents in high-poverty, low-rent neighborhoods so that tenant payments won't rise much when subsidy amounts fall. This is an unrealistic and risky assumption when rents are rising and vacancy rates are low, even in high-poverty neighborhoods, some of which are rapidly gentrifying.

For movers, the new vouchers, set at 40th percentile rents, may have insufficient purchasing power in a tight rental market to open up new neighborhood options to families.

Another problem with SAFMRs is that zip codes fail to delineate meaningful boundaries for housing sub-markets in New York. While HUD's proposal may offer some flexibility for housing authorities to combine zip codes upon application, the geography of zip codes offers no comfort to affordable housing advocates concerned by the immensely complicated process of finding an apartment to use a Section 8 voucher with 176 rent levels, matching our number of zip codes.

Section 8 is a mobility program. When only one in five families use their vouchers to rent in low-poverty areas nationally, it is clearly not providing the mobility intended. In New York, vouchers are primarily concentrated in poor neighborhoods in Brooklyn and the Bronx. That must change. Giving low-income families more housing options, especially in high-opportunity neighborhoods with better schools, lower crime, access to employment and transit, is what the program should do. But program improvements should not be achieved on the backs of low-income families who choose not to or who are unable to move. Only with a significant budget increase, should HUD consider offering higher rent levels in New York City—not by zip code—but perhaps in high performing school districts or other more meaningful boundaries.

I encourage this committee to work with the City, advocates and community members on a better solution to achieve goals of concentrated voucher use.



**Testimony of Elizabeth Strojan  
Program Director, Public Policy & External Affairs  
Enterprise Community Partners, Inc.**

**To the New York City Council  
Committee on Public Housing  
Oversight Hearing on HUD's Proposed Rule on  
Small Area Fair Market Rents for the Section 8 Program**

**October 5, 2016**

Good afternoon. My name is Elizabeth Strojan, and I direct public policy for the New York office of Enterprise Community Partners, a non-profit organization that has worked to create and preserve affordable housing in New York and nationwide for 30 years. Thank you, Chair Torres and the Committee on Public Housing, for the opportunity to provide testimony on the Department of Housing and Urban Development's (HUD) proposed rule on small area fair market rents.

The goal of the proposed rule is to provide opportunities for individuals and families with Housing Choice Vouchers, often called Section 8, to move into areas of higher opportunity and lower poverty. Section 8 is both a housing stability program and a mobility program. Balancing these goals is extremely difficult given the enormous need for rental support for low-income households, the growing homeless population, and ongoing budget constraints. The real solution to stably house everyone who needs support and provide opportunities for mobility is to recalibrate our housing priorities at the federal level. Only 23 percent of households who are eligible for federal rental assistance actually receive it. Meanwhile, we're spending tens of billions of dollars each year to subsidize the mortgages of high-income families who don't need government support to remain stably housed. Each year, more federal housing subsidies go to the richest 5 million households – those making more than \$200,000 per year – than go to the poorest 20 million households combined.<sup>1</sup>

Enterprise strongly supports the goal of ensuring recipients of Section 8 vouchers have access to neighborhoods with good schools, jobs and other opportunities. Recent research from Stanford's Raj Chetty shows that each year a child spends in a low-poverty neighborhood increases her chances of going to college, decreases her chances of becoming a single parent and increases her expected earnings as an adult.<sup>2</sup> While this research was groundbreaking in many ways, it also presents a truth that many families know – better neighborhoods with access to better amenities

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<sup>1</sup> Enterprise Community Partners, *An Investment in Opportunity* (February 2016)

[https://s3.amazonaws.com/KSPProd/ERC\\_Upload/0100943.pdf](https://s3.amazonaws.com/KSPProd/ERC_Upload/0100943.pdf)

<sup>2</sup> Raj Chetty, Nathaniel Hendren, Lawrence F. Katz, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*, Harvard University and National Bureau of Economic Research (August 2015)

have positive benefits on children. We know many low-income families would like the option to move to different neighborhoods.<sup>3</sup>

New York City must proactively work to find ways to provide opportunities for mobility in New York City. But we need to find solutions that will work here given our housing market. Potential solutions include better enforcement of existing laws to protect voucher holders from discrimination based on source of income, race, familial status, and other factors; piloting a voucher mobility program that includes counseling to assist Section 8 recipients in finding homes in neighborhoods of opportunity and additional funding for increased rent levels; and increasing the supply of affordable housing in communities citywide.

However, we also have to understand that not every individual or family wants to move, and solutions for mobility in New York must not punish individuals and families who choose to stay where they are. New York's expensive and tight housing market makes it incredibly difficult to apply HUD's proposed rule without hurting current voucher holders. While many places throughout the country – like Dallas where this was shown to work – will benefit from the proposed rule, in cities like ours with low housing vacancy rates, if voucher values decline, it is unreasonable to expect landlords to respond by lowering the rent. Without additional funding to cover the cost of increased rents in higher opportunity neighborhoods, this will come at the expense of voucher holders who choose to stay in zip codes that HUD identifies as low opportunity, who will need to pay more for rent out of pocket.

It is for this reason that we agree that HUD should exempt cities with vacancy rates below five percent. We stand ready to work with the City Council, the Department of Housing Preservation and Development, tenants, advocates, and our housing provider partners to find ways to promote mobility for low-income households in New York, while working to ensure all neighborhoods provide the opportunities everyone deserves.

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<sup>3</sup> Anti-Discrimination Center, *They're our neighborhoods too: Exploding the myth that most affordable housing seekers in highly segregated New York City insist on staying close to home* (June 2015)  
<http://www.antibiaslaw.com/sites/default/files/They're%20our%20neighborhoods,%20too.pdf>



TESTIMONY BY THE RENT STABILIZATION ASSOCIATION  
IN OPPOSITION TO  
HUD'S PROPOSED SECTION 8 SMALL AREA FAIR MARKET RENTS

October 5, 2016

My name is Mitchell Posilkin and I am the General Counsel for the Rent Stabilization Association, which is comprised of 25,000 apartment building owners and managers who own or manage approximately one million apartments in the City of New York. With me is Frank Ricci, RSA's Director of Government Affairs. Thank you for this opportunity to testify with regard to the proposal by the United States Department of Housing and Urban Development to establish small area fair market rents for the Section 8 program.

RSA is opposed to the proposed regulations which would establish a new mechanism- known as Small Area Fair Market Rents (SAFMR)- to replace the existing mechanism for determining Section 8 subsidies, and to urge that the Department of Housing and Urban Development not implement the proposed regulations, or at least not in the City of New York.

Property owners in the City, particularly the apartment building owners and managers who comprise our membership, are deeply enmeshed in the Section 8 program. Tenants in approximately 125,000 privately-owned rental apartments in the City are subsidized by Section 8 Housing Choice Vouchers (in addition to apartments in project-based Section 8 buildings), the vast majority of which are also subject to the overlapping web of rent control and rent stabilization laws and regulations.

In addition to the well-known bureaucratic complexities of the Section 8 program which are exacerbated by the City's rent regulatory schemes, many property owners in the City are further burdened by the fact that they oftentimes must navigate between two separate and distinct

agencies- the New York City Housing Authority and the New York City Department of Housing Preservation and Development which serve as public housing authorities for the purpose of Section 8 administration in the City. Each agency, of course, not only has their own offices but each has their own particular bureaucracies, procedures and interpretations of applicable federal regulations and guidelines.

Last but not least, property owners in the City, who already manage and operate their buildings in the most highly regulated environment in the nation, also must contend with the uncertainties created by a local law enacted several years ago which precludes them from making rental determinations based upon a prospective tenant's source of income, including Section 8 benefits.

Taken together, compliance with all of these various laws and responding to a veritable alphabet soup of State and local agencies is daunting at best, requiring larger, more sophisticated owners to hire specialized staff and overwhelming the smaller owners who must either sink or swim on their own. The proposed regulations would take this already untenable situation and create a nightmarish scenario by differentiating payment standards based upon arbitrary zip codes. As opposed to the single payment standard currently in effect in the City of New York, the proposed regulations would require payment standards to reflect the circumstances in 188 different zip codes throughout the impacted area- that number speaks for itself.

Compelling property owners, let alone tenants or even the administering agencies, to take into account differing payment standards, conceivably from one side of a street to the other, is beyond burdensome. The impracticality of such a scheme is overwhelming. Further, at least in the City of New York, this scheme will not achieve HUD's desired results and may very well prove to be counter-productive. It is likely to result in a decline in the utilization of vouchers at a time when the demand for vouchers is seemingly insatiable. Instead of reforming Section 8 to facilitate participation by making the program more user-friendly for both owners and tenants, the proposed regulations would accomplish quite the opposite. However well-intentioned they may be, the proposed regulations seem, at best, to be a solution in search of a problem and, at worst, to create yet further disincentives for the providers of affordable housing.

If implemented, the proposed SAFMR regulations would have adverse consequences for property owners throughout the City, the very same property owners who actually provide the



affordable rental housing in the City. These adverse consequences for owners would be in addition to the adverse consequences for tenants. The most serious of these adverse consequences would result from the decreased payment standards in the neighborhoods with the largest concentrations of affordable housing in the City.

Based upon the proposed regulations, Section 8 recipients in designated zip codes would experience a decrease in their subsidies, in which case the tenants, who are already in need under Section 8 standards, would be obliged to increase their out-of-pocket share of the rent. For many of those tenants who will simply be unable to increase their out-of-pocket share, the reduced benefits will cause them to default upon their rent payment obligations under their leases. The inevitable result in those instances is that property owners will bring non-payment proceedings in Housing Court which, potentially, will result in the evictions of those tenants.

The irony is that at the same time that HUD is proposing to reduce payment standards in various areas of the City, the experience of both owners and tenants in the City is that the payment standards are often too low at their current rate. Not only will in-place Section 8 tenants find themselves facing their potential eviction but they will likely find themselves replaced in those very same apartments by non-subsidized tenants. And the displaced Section 8 tenant will be unlikely to find an affordable apartment in a zip code with an increased SAFMR, given current rental market conditions throughout the City. If the current payment standards are too low for neighborhoods with significant affordable housing stock, even increased payment standards will prove to be inadequate in the other neighborhoods in the City, which are among the most expensive in the entire nation.

It is evident that the very purpose of Section 8- to maximize the availability of affordable housing in the private marketplace- will be seriously undermined if the proposed regulations take effect in their current form.

Again, thank you for this opportunity to testify.

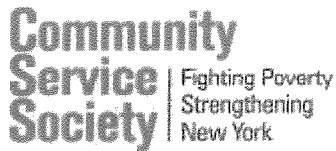
Greetings, my name is Mahkeddah Thompson and I am here on behalf of Housing Court Answers.

Every day in Housing Court, we see section 8 voucher holders in holdover cases looking for apartments. The current voucher price is too low. Rental prices are already too high, and with a vacancy rate of 3.45%, there are no apartments available. Landlords won't rent to voucher holders, despite source of income discrimination laws. Many of the tenants we see being evicted in Housing Court end up moving away with portability transfers, lose their voucher, or end up in the shelter system after being unable to find any apartment in the city. To maintain affordable housing, we should be doing everything we can to keep tenants housed in their current apartment.

A family living in 10453, the heart of the Jerome Avenue rezoning battle, will see their voucher value go from current level of \$1571 down to \$1230 under the proposal. In this neighborhood alone, 2780 households will see an increase in their rent, of \$180 on average. In neighborhoods that are already facing intense gentrification pressure, tenants would experience an average 47-51% rent burdens. Across the city 55,000 households will see increases in their rent.

A forced move out of their community would disrupt section 8 tenants' connections to family and the neighborhood that they built. Under the proposed changes, a tenant with a voucher for a 2 bedroom apartment would have to find an apartment in Chelsea for \$2,250 or in Brooklyn Heights for \$2150 which doesn't exist. These so called higher opportunity neighborhoods don't have affordable grocery stores, they have more expensive daycare.

Housing Court Answers supports the NYC council resolution against HUDs proposed rule on Small Area Fair Market rents for the Section 8 program. HUDs proposal is counterproductive to the efforts currently in place to maintain affordable housing. Lowering subsidy amounts in any neighborhood in NYC will accelerate displacement.



**Testimony of  
Victor Bach and Tom Waters, Housing Policy Analysts  
Community Service Society (CSS)  
at  
Hearing, New York City Council Committee on Public Housing  
On  
HUD's Proposed Rule on Small Area Fair Market Rents for the Section 8 Program  
October 5<sup>th</sup>, 2016**

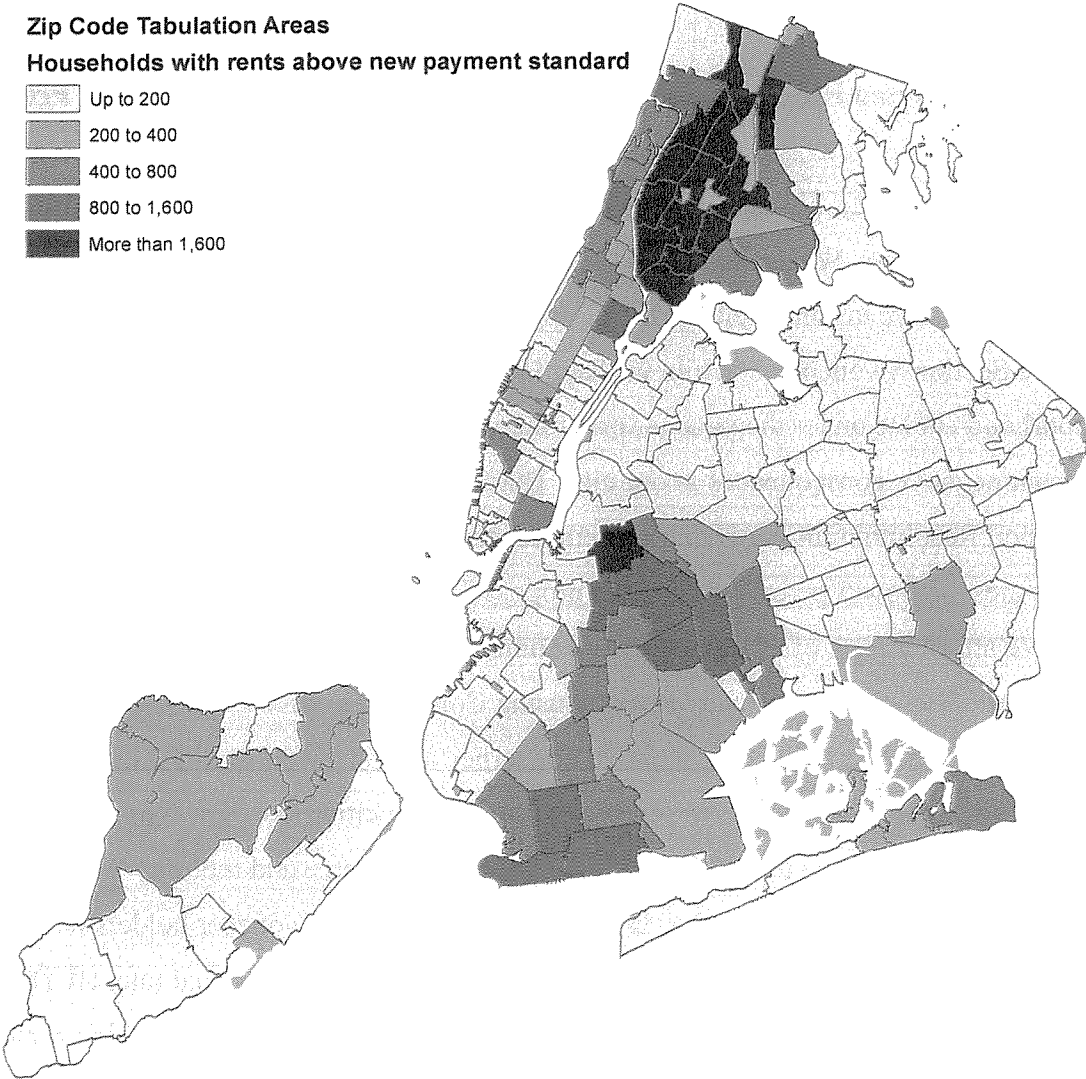
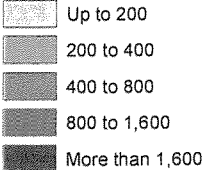
The Community Service Society seeks to improve conditions and opportunities for low-income New Yorkers. We are concerned about how federal Section 8 vouchers affect the living conditions, rent burdens, and neighborhood opportunities for 120,000 households who now hold or receive Section 8 vouchers. While we laud HUD's objective of expanding housing and neighborhood choice under the voucher program, we believe the proposed rule will have significant negative consequences in our city. Thank you for the opportunity to testify in support of a Council Resolution urging HUD to exempt localities like New York City with low rental vacancy rates—below 5 percent—from the proposed rule.

We attach a copy of the detailed joint comments submitted to HUD last August by CSS, the Legal Aid Society, and the New York Housing Conference, which was also endorsed by 47 organizations in the city. In brief, we were concerned and puzzled that HUD did not consider rental vacancy rates as a criterion in selecting localities. In cities like New York, with tight high-cost rental markets, competition for available apartments is fierce and mobility from one apartment or neighborhood to another is limited. Because of that voucher holders have difficulty using them—the turn-back rate here is significantly higher than the national rate. HUD's proposal—absent additional funding and service resources—would not succeed in promoting mobility to better housing and neighborhoods. Rather it would decrease voucher payments in the lower-rent neighborhoods where holders tend to be concentrated, impose much higher rent burdens, and ultimately destabilize these families, increasing their risks of displacement and homelessness.

The following two maps tell the story in brief. The first depicts the zip code areas where the new payment standards would be lowered—they are the areas where existing voucher

**Zip Code Tabulation Areas**

**Households with rents above new payment standard**



holders are concentrated: South and Central Bronx, Central and Southern Brooklyn. Unless landlords lowered their rents—unlikely in today’s market—voucher families would bear significantly greater rent burdens. If they chose to move with their vouchers, like other new voucher holders they would have great difficulty finding suitable units, whether or not they can better their housing or neighborhood.

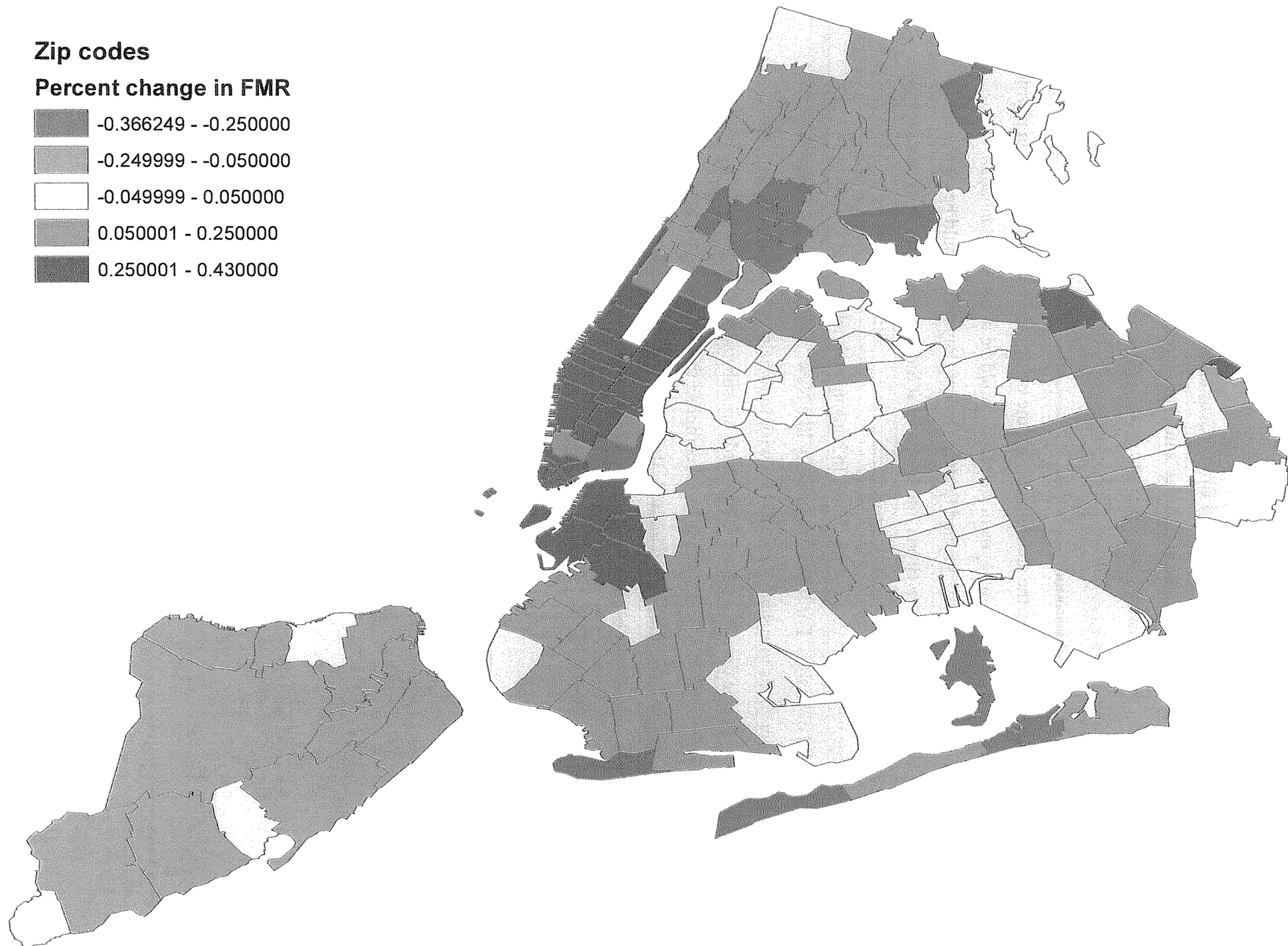
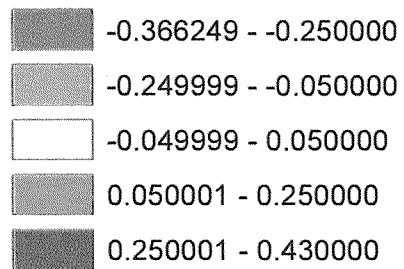
The second map depicts the areas in terms of the percent decrease or increase in payment standards. The greatest increase in payment standards would be in central Manhattan, Greenpoint-Williamsburg in Brooklyn, and Eastern Queens. Payments would be significantly lowered in East Harlem, the South Bronx, the Lower East Side, much of Brooklyn, areas where current voucher holders tend to be concentrated.

We agree with HUD that greater choice in housing and neighborhood among voucher holders is a valid objective. For it to work in a city like New York, there would have to be additional voucher funds to sustain families who wish to remain in lower-rent neighborhoods of their choice at the same time that payment standards are substantially raised to open up wider opportunities elsewhere. But HUD is trying to accomplish this without additional funding and it will only hurt many of the families and individuals they want to help.

For these reasons, we support the Council resolution urging HUD to exempt cities with low rental vacancy rates—below 5 percent—from its Small Area FMR proposal. Thank you.

## Zip codes

### Percent change in FMR



Docket Number: HUD-2016-0063

Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs

**Comments of Community Service Society, The Legal Aid Society and  
the New York Housing Conference**

endorsed by 47 organizations listed on page 14.

These comments have been prepared by Community Service Society, Legal Aid and the New York Housing Conference and they are endorsed by the organizations listed below. Collectively, we thank the United States Department of Housing and Urban Development (HUD) for the opportunity to comment on the proposed rule to use Small Area Fair Market Rents (SAFMR) for the Housing Choice Voucher program. HUD's stated purpose in the proposed Rule is to provide voucher holders with a more effective means to move into areas of higher opportunity and lower poverty areas. We commend HUD for taking steps to improve the Housing Choice Voucher program by seeking to achieve improved mobility for families and to deconcentrate poverty in low-income communities. We support HUD's goals of deconcentrating poverty and promoting greater mobility. We strongly believe that tenants who want to move into areas of higher opportunity should be given enhanced tools to do so. However, without a significant budget increase, we have some serious concerns that the rule as currently proposed will result in unfavorable outcomes for the Section 8 voucher holders in low-vacancy metropolitan areas like New York City and may not achieve the mobility objectives of the proposed rule. HUD's proposed rule as currently conceived would lead to 55,000 New York City voucher holders households to face rents that are higher than the maximum payment standard for their zip code. After providing background on the New York housing market and examining HUD methodology for criteria, we outline concerns and make recommendations to improve this proposal

**Landscape of rental housing in NYC**

New York City is a city of renters where approximately two-thirds of all New Yorkers rent their homes.<sup>1</sup> About one million or about half of all rental apartments are covered under New York's rent stabilization system.<sup>2</sup> As part of the rent stabilization system, New York, through the United States Census Bureau, completes a tri-annual survey of New York City's housing market. In the most recent report, the Housing and Vacancy Survey of 2014, determined New York City's vacancy rate was 3.45%,<sup>3</sup> by surveying rents and incomes from three months in 2014. Apartments are even harder to come by at the lower end of the market -- for units with rents of less than \$800 the vacancy rate is just 1.8%, while the rate for units asking above \$2,500 is 7.32%.

In addition to an extremely low-vacancy rate, New York renters also suffer from high rent burdens. Over 50 percent of renter households pay more than 30% of their income towards their rent and almost 30% of renter households pay more than 50% of their income toward their

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<sup>1</sup> Elyzabeth Gaumer, Dr. Sheree West, City of New York Department of Housing Preservation and Development, *New York City Housing and Vacancy Survey (HVS)*, 1.

<sup>2</sup> *Id.* at 2

<sup>3</sup> *Id.* at 3.

rent.<sup>4</sup> New Yorkers find their rent growing faster than their incomes, and for households with incomes of twice the poverty rate, the median income to rent ratio is 49%.<sup>5</sup> A recent report by Controller Scott Stringer found that in the period of 2000-2012, New York City lost 400,000 apartments that rented for less than \$1000.<sup>6</sup> Overall, from 2002 to 2011, there has been a 39% loss in rental apartments that low-income households can afford.<sup>7</sup> Meanwhile, in that time period, the population of homeless families and individuals has skyrocketed. Nearly 60,000 individuals were sleeping in New York City's homeless shelters as of May 2016.<sup>8</sup> As of March 31, 2016, there were 258,880 families on the waiting list for Conventional Public Housing and 147,033 families on the waiting list for Section 8 housing. That list has been closed since 2007.<sup>9</sup>

While our rental stock is growing through significant local investment in affordable housing (\$41 billion over 10 years) and through market-rate new construction, so is our population. New York City is expected to add 800,000 residents by 2040. In New York City's hot real estate market, demand for rental apartments outpaces construction of new units and rising rents outpace income growth, squeezing renters in a very tight market with drastically lower mobility than other parts of the country.

New York City is in the midst of an affordable rental housing crisis which is exacerbated by its low vacancy rate, impacting communities across the five boroughs. New York City's high demand for housing, has resulted in unprecedented levels of capital investment in real estate causing rapid changes on the neighborhood level. Gentrification is increasing and spreading out from core Manhattan and causing severe hardship on the city's lowest income residents. New York University's Furman Center "State of New York City's Housing and Neighborhoods in 2015" report found that the vast majority of additional housing units were built in gentrifying neighborhoods.<sup>10</sup> While gentrifying neighbors have actually seen a steeper drop in crime than those labeled non gentrifying and high income, many existing low-income residents are forced out of neighborhoods they have long considered home due to rising rents and thus miss out on the positive benefits of neighborhood changes.

### **Recommendations – Overview**

In the light of interrelationship between the lack of affordable housing and vacancy rate we see in New York and other major metropolitan areas, the key change we recommend is that HUD include in its methodology for selecting SAFMR areas a locality's vacancy rate and exempt all areas with vacancy rate below 5%. Second, we recommend that HUD's hypothetical

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<sup>4</sup> Id. at 7

<sup>5</sup> Victor Bach & Tom Waters, Community Service Society, *Making the Rent 2016: Tenant Conditions in New York City's Changing Neighborhoods*, May 2016 at 2.

<sup>6</sup> Scott M. Stringer, New York City Comptroller, *The Growing Gap: New York City's Housing Affordability Challenge*, 2014, 6.

<sup>7</sup> Coalition for the Homeless, *State of the Homeless 2014: Turning Point: Amidst Unprecedented Homelessness – A New Focus on Housing Can Turn the Tide*, 14.

<sup>8</sup> Coalition for the Homeless, *Fact about Homelessness*, <http://www.coalitionforthehomeless.org/the-catastrophe-of-homelessness/facts-about-homelessness/> last accessed July 27, 2016

<sup>9</sup> New York City Housing Authority, "Facts about NYCHA," available at <http://www1.nyc.gov/assets/nycha/downloads/pdf/factsheet.pdf>. Data accessed July 27, 2016.

<sup>10</sup> Austensen, et al., NYU Furman Center. *State of New York City's Housing & Neighborhoods in 2015* Released May 9, 2016, at 7.



SAFMR be revised to reflect current market conditions in New York City's rapidly gentrifying neighborhoods which are no longer properly classified as low opportunity neighborhoods with significant decreased payment standards. Absent such revision, low-income tenants in these neighborhoods will have to move and thus forgo the increased opportunity that these neighborhoods have experienced due to increased investment and new amenities. Until such revision is made and there is a greater understanding of New York's current market conditions, we recommend that HUD delay implementation of the proposed rule. Third, we recommend that HUD hold harmless all current tenants. Our analysis shows that should the proposed rule be implemented in its current form, 55,606 households in New York City would see their payment standards decrease and would be left with a choice of paying significantly more than 30% of their income in rent or risking the loss of their voucher while trying to transfer to another more affordable apartment. Because of New York City's affordable housing crisis, there is nowhere for these displaced tenants to go. Fifty-two percent of impacted households are elderly, disabled or both, who will be especially affected by this new rule. There must be protections put into place to ensure that they do not face challenges in remaining housed. We also recommend project based vouchers be exempt from these new rules. Finally, we recommend that HUD delay implementation until a significant budget is available to accompany this proposal and also to allow more time to study a more effective approach to achieve stated goals in low-vacancy areas. Each of our recommendations are further discussed below after a discussion of market conditions essential to understanding the recommendations.

### **Background – Market Conditions**

The federal register notice for the Small Area Fair Market Rent proposal describes the purpose of the SAFMR system as establishing “a more effective means for [Housing Choice Voucher] tenants to move into areas of higher opportunity and lower poverty,” but in fact the system can be expected to work through two mechanisms – both a pull mechanism in which higher payment standards for apartments in zip codes with high rents brings those rents into reach for voucher holders and a push mechanism in which lower payment standard in zip codes with lower rents make it harder for voucher holders to obtain and retain apartments there.

Because areas with higher rents are expected to have lower poverty rates and better supports for economic opportunity, such as better schools and lower crime rates, the combined effect of these pull and push mechanisms is expected to benefit voucher holder households. But it remains important to understand that the design of the proposed policy creates burdens as well as benefits for voucher holders. And it is particularly important to note that the balance between the burdens and benefits is likely to be affected by the housing market conditions in particular cities.

The most troubling outcome of increased burdens on voucher holders is increased risk of being unable to find an apartment and having to return the voucher after the end of the maximum allowed search period (which varies by voucher-issuing agency). In 2001, a HUD-commissioned study found that the national success rate for voucher holders' efforts to lease an apartment was only 69 percent [above you use % and here you spell out - you could make consistent], while the rates in New York City and Los Angeles were only 57 percent and 47 percent respectively. The study also found that success rates were lower in cities with tighter housing markets. Currently

50% of voucher holders need longer than six months to lease an apartment and 25% of movers are losing their vouchers because of failed searches.<sup>11</sup>

Local housing market conditions can be expected to affect both the pull and the push mechanisms of the SAFMR system. In cities with tighter markets, landlords may be less willing to rent to voucher holders in higher-income zip codes despite higher payment standards, undermining the benefits of the SAFMR system. Just as important, in the same cities landlords may be less willing to accept the reduced rents voucher holders would be able to pay in lower-rent zip codes under the SAFMR system.

It is worth noting that Collinson and Ganong, in the paper which provides much of HUD's rationale for the SAFMR system, interpret their findings in light of a model focused on voucher holders' "trade-off between finding a unit at all and finding a unit in a high-quality neighborhood" (p.5). This would suggest that the benefits they observed, in which Dallas voucher holders tended to shift from low-income center city neighborhoods to middle-income peripheral ones after the SAFMR system was introduced, should be balanced by a decrease in voucher holders' success rate in using their vouchers at all. (Collinson and Ganong do not report any effect of the policy change on success rates. They also describe their main findings as consistent with this model and present additional suggestive evidence that voucher holders are making this tradeoff, but do not claim to demonstrate that the model itself is correct.)

It may well be that in loose-market cities like Dallas, a small decrease in voucher success rates may be justified by an increase in voucher holders' neighborhood quality, but that in tight-market cities like New York, the trade-off would not be worth it. Attention to cities' varying market conditions is thus called for in designing a SAFMR policy.

Market conditions in U.S. cities vary widely. New York is one of a group of tight-market metropolitan areas where the vacancy rate is low, growth in the rental stock is low, rents are high and rising fast, moves are infrequent, and rents are much higher for recent movers than for others. Other big metropolitan areas generally fitting this pattern are Boston, Los Angeles, and San Francisco. Dallas is at the other extreme, along with Atlanta and Houston.

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<sup>11</sup> Conversation with Cathy Pennington, Executive Vice President, NYCHA

	New York	Boston	Los Angeles	Dallas	Atlanta	Houston	US Metro Areas
Renter share in central city, 2014	66%	64%	60%	51%	55%	46%	49%
Vacancy rate, 2014	5%	5%	4%	8%	10%	9%	8%
Growth of rental stock, 2006 to 2014	11%	11%	12%	25%	26%	28%	18%
Median gross rent, 2014	\$1,280	\$1,250	\$1,310	\$950	\$980	\$940	\$970
Share of recently available apartments affordable to median renter, 2014	22%	26%	21%	50%	37%	48%	35%
Increase in real center city median gross rent, 2006 to 2014	15%	6%	9%	2%	2%	1%	5%
Share of renters who have moved in last year, 2014	15%	26%	20%	33%	33%	32%	29%
Excess of median rent for recent movers over other renters, 2014	20%	27%	17%	2%	4%	7%	4%

Source: Ellen and Karfinkel 2016, except share of renters who moved in last year CSS analysis of ACS 2010-2014 Five-Year Sample table from American Factfinder and excess of median rent for recent movers calculated by CSS from table in Ellen and Karfinkel 2016.

All of these variables suggest a much tighter market in New York, Boston, and Los Angeles – and one where it would be particularly difficult for voucher holders to find a new apartment in order to either take advantage of higher payment standards in high-rent zip codes or respond to a decrease in their zip code’s payment standard below their current rent.

The share of renters who moved in the last year and the excess of rent for recent movers over other renters are particularly significant because they illustrate the depth of hardship involved in moving for low-income households in these cities. When such tenants move, they rarely find new apartments as affordable as the ones they leave behind. If decreased payment standards under a SAFMR system prompt them to move, they will have little chance of finding apartments in any low-rent zip codes, making them extremely vulnerable to any discrimination or other barrier to accessing apartments in higher-rent zip codes with higher payment standards.

### **Recommendation One: Add Vacancy Rate to SAFMR Methodology**

The implementation of SAFMRs will be challenging in tight rental markets with low vacancy rates where renters in general find it difficult to move. If the purpose of the implementation of SAFMRs is to enhance tenants’ opportunities to move, there must be enough apartments to move to. It is therefore essential that, among the criteria HUD uses for selecting SAFMR areas, vacancy rate should be included.

Additionally, one of the assumptions in lowering the SAFMR for current tenants is that in apartments that are over subsidized, landlords will follow the market and lower rents. However,

landlords in tight markets feel little pressure to lower rents since tenants, with or without vouchers, will pay the asking rent so to avoid homelessness.

In New York City, the annual move rate for voucher tenants is two percent. The reason behind this is that in a rental market with few vacancies and little turnover, there is little or no mobility for renters in general and, no doubt, less for voucher holders. Low-vacancy rate cities, like New York City have high turn-back rates for voucher holders seeking apartments. Unfortunately because of these market conditions, shifting to the SAFMR approach would have no appreciable effect in improving the location or housing quality of voucher holders. In neighborhoods of opportunity where vacancies are scarce, voucher holders face strong competition from unvouchered renters. More likely, this proposal will have adverse effects on many households HUD hopes to help.

Because of New York City's low vacancy rate, in low-rent areas, existing voucher holders would face hardship rent burdens if they remained in their homes. Lowered payment standards could result in an increase in owner lease terminations upon expiration, placing households at greater risk of eviction, displacement, and homelessness. At the same time, alternative housing opportunities would shrink. In low-rent areas, lower payment standards would create owner disincentives to participate in Section 8. Opportunities in higher-rent areas will not expand significantly with increased FMRs?, due to the competition for scarce apartments and unwilling owners. As a result, there would be a cumulative loss of units available to voucher holders and even higher turn-back rates.

**Recommendation Two: Revise HUD's hypothetical SAFMR to reflect current market conditions in New York City's rapidly gentrifying neighborhoods which are no longer properly classified as low opportunity neighborhoods**

HUD's hypothetical SAFMRs get New York City's market wrong on a fundamental level, failing to reflect current market conditions in New York City's rapidly changing neighborhoods. There have been rapid shifts in New York City's housing market in the last 20 years. One of the most noteworthy is that formerly low-income neighborhoods have begun to gentrify. Gentrification has brought many changes into these neighborhoods including higher income residents, more investment, more amenities and decreases in the crime rate. However, because of the lag in data used by the American Community Survey or perhaps the algorithm used to determine neighborhoods of low opportunity, or because zip codes are not meaningful boundaries delineating differences in neighborhood rents in New York City, HUD's hypothetical SAFMRs fail to reflect the reality on the ground. NYU's Furman Center recently released a report which examined the state of New York City's housing market. In that report, they designated fifteen neighborhoods as gentrifying.<sup>12</sup> Of those neighborhoods, twelve would see the SAFMRs decrease significantly, including Central Harlem, Lower East Side, Bushwick, East Harlem, Washington Heights/Inwood, Mott Haven/Hunt's Point, South Crown Heights, Brownville/Ocean Hill, Morrisania/Belmont, Bedford Stuyvesant, Sunset Park, and Morningside Heights. It is striking that many of the gentrified neighborhoods have zip codes with significant decreased payment standards. Low-income tenants in these neighborhoods will have to move

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<sup>12</sup> Austensen, et al, NYU Furman Center. *State of New York City's Housing & Neighborhoods in 2015* Released May 9, 2016, at 6.

and thus forgo the increased opportunity that these neighborhoods have experienced due to increased investment and new amenities.

For example, according to HUD's hypothetical, SAFMRs upper Manhattan zip codes, 10039, 10030, 10037, and 10027 encompass the area known as Harlem. Harlem was a historically mixed income, African-American neighborhood. However, in recent years, Harlem has experienced change and gentrification. A study, based on the HVS found that between 2002 and 2014 rents for recent movers increased a shocking 90%.<sup>13</sup> This neighborhood has seen a significant decline in low-income residents, a decrease in African American residents, an increase in college educated high-income residents and an increase in the population of white residents. With this gentrification has followed an increase in amenities and investment and a decrease in crime. This should be a neighborhood that HUD's SAFMRs would encourage low-income voucher holders of color to remain in to gain the benefits of the neighborhood's increasing opportunity. Instead, the SAFMRs for these four zip codes see a significant decrease ranging from a declining payment standard for a two bedroom of \$495 a month for 10039 to a decrease of \$231 for 10027.<sup>14</sup> Similar changes have come to the Lower East Side (10002) where a formerly low-income Hispanic neighborhood has become whiter and higher income. This change in the income mix and racial mix is not reflected in HUD's hypothetical SAFMRs which instead encourage low-income voucher holders to leave the neighborhood by decreasing the payment standard for two bedrooms by \$407. Significantly, neither of these areas have an extreme concentration of voucher holders.

Other issues have been discovered with HUD's hypothetical SAFMRs. One neighborhood that would see a significant decrease in payment standards is Bensonhurst, zip code 11214. Bensonhurst is a low- to middle-income neighborhood in Brooklyn with good schools and low crime rates. It ranks eleventh and twelfth out of 59 for its community district for fourth grade students performing on math and English tests, respectively.<sup>15</sup> It ranks 53<sup>rd</sup> out of 59 in crime rates.<sup>16</sup> Yet the hypothetical SAFMRs would decrease the payment standard here by \$242 a month. Indeed, the whole area of South Brooklyn contains neighborhoods designated by NYC as high-opportunity school districts. However, the hypothetical SAFMR incentivizes voucher tenant to leave these neighborhoods with good schools. Other areas in Brooklyn that are beginning to see the changes brought by gentrification would see decreases such as Williamsburg/Bushwick (11206) at \$297 a month, Crown Heights (11213) at \$264 a month, and Prospect Lefferts Gardens (11225) at \$242 a month.

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<sup>13</sup> Thomas J. Waters, Community Service Society, *As Albany Debates Rent Regulation, CSS Analysis Shows Rapidly Rising Rents in Many Parts of City*, June 8, 2015, Slide 3

<sup>14</sup> The analysis comparing current FMR to HUD's hypothetical FMRs made the following assumptions. Currently NYCHA's payment standard for a two bedroom is \$1650. HPD's is \$1697. We used NYCHA's payment standard. Additionally we assumed that both agencies would set the small market payment standard at 110% of the SAFMR.

<sup>15</sup> Austensen, et al., NYU Furman Center. *State of New York City's Housing & Neighborhoods in 2015* Released May 9, 2016, at 98.

<sup>16</sup> Id.

### **Recommendation Three: HUD Should Hold Harmless All Current Tenants To Avoid Significant, Adverse Impacts**

Below we outline four primary adverse impacts implementation of the proposed rule would have at this time: (a) adverse impact on HCV payment standards and rent burdens; (b) adverse impact on voucher holders; (c) adverse impact on rent stabilized stock; and (d) impact on PHA administration and program participants. Each of these projected impacts supports our recommendation that current tenants be held harmless.

#### ***(a) Negative Impact on HCV Payment Standards and Rent Burdens***

In HUD's June 30<sup>th</sup> webinar announcing and explaining the proposed rule on SAFMR, one participant asked whether HUD was concerned that the proposed rule would lead to displacement and whether HUD had analyzed whether the displaced voucher tenants would have someplace to land. The response from the HUD official was that the agency would appreciate hearing from the commentators about how to measure this. As part of our comments, we attempted to determine whether displaced voucher tenants would have someplace to go. Our findings are detailed below.

Our analysis shows that 55,606 voucher holder households in New York City would see their payment standards decrease and would be left with a choice of paying significantly more than 30% of their income in rent or risking the loss of their voucher while trying to transfer to another more affordable apartment. Despite the intention that HUD's proposal be cost-neutral, SAFMRs will be lowered in many zip codes. HUD's proposal can only be achieved in a fully utilized Section 8 Housing Choice Voucher Program by 1) tenants negotiating a lower rent with their landlord to remain in their existing home in a low-income neighborhood 2) tenants increasing their rent burden to remain in their existing homes in a low-income neighborhood, 3) tenants who choose to remain in their low-income neighborhood but cannot pay a greater portion of their income on rent for their existing home moving to a cheaper apartment. These options free up the Section 8 budget used in low-income communities in order to provide greater opportunity to some families moving to higher-income communities. Without additional funding for the Section 8 Housing Choice Voucher Program, this proposal can have a detrimental effect on fully utilized voucher programs and existing families being served. In recent years, fifty percent of voucher holders who want to or must move take more than six months to move. With a potential floor for half of movers failing to lease up in time and losing their vouchers, the result would lead to fewer families served.

Bronx County is New York City's poorest county. An outsize number of New York City's voucher holders live in Bronx County, many of them choosing to live in neighborhoods close to family, church, schools and other community supports. Bronx County has twenty-five zip codes. Of New York City's sub borough areas, four out of the top five have the highest concentrations of voucher holders in New York City.<sup>17</sup> Indeed, 49,851 voucher holder households live in Bronx County with an average annual household income of \$16,000.<sup>18</sup> The

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<sup>17</sup> Austensen, et al., NYU Furman Center. *State of New York City's Housing & Neighborhoods in 2015* Released May 9, 2016, at 155.

<sup>18</sup> HUD's Picture of Subsidized Households for Bronx County 2015.

proposed shift to SAFMRs would significantly affect these voucher holders. Thirty-one thousand, two hundred and sixty-five (31,265) households will be faced with the choice of moving or paying higher rents. Sixty-three percent of voucher holder households in the Bronx will be affected. Out of the Bronx's 25 zip codes, twenty two will see decreases to the SAFMR. The zip code that will see the largest decrease for two bedroom apartments is 10475, which will see low-income tenants paying almost \$473 a month more to stay in their apartments. Twenty zip codes will see decreases of over \$150 a month. HUD's proposal is intended to be an incentive for these families to leave areas of concentrated poverty but if they do not want to move or are unable to find a cheaper apartment locally or an apartment in a better neighborhood, how will these families afford to pay a greater share of income on rent?

An analysis of apartments with at least two bedrooms on Zillow found 960 apartments renting currently in the Bronx.<sup>19</sup> Comparing the apartments available for rent to the hypothetical SAFMRs for the 25 zip codes in the Bronx, 50 were advertised as being below the payment standards for the applicable zip codes. This means that under the new proposal approximately 5% of the apartments advertised would be available for tenants to use their vouchers.

One of HUD's apparent goals in publishing its proposed rule is to provide tenants with enhanced mobility. To that end, including the Bronx, ninety seven New York City zip codes would see decreases in the SAFMR for two bedrooms ranging between eleven dollars and five hundred and fifty dollars a month. The rest would see either no change or increases up to eight hundred and twenty five dollars a month. We conducted an analysis of apartments with at least two bedrooms on Zillow that were available for rent for the zip codes which would see increases. The analysis assumed that rents of up to fifty dollars above the payment standard would be approved by New York City's public housing authority. The analysis found 446 apartments available for the 55,606 voucher holder households who will be potentially displaced in New York City. These voucher holders will of course also be competing with families in the private market. In New York, as well as many of the high-rent, low-vacancy metropolitan areas, competition for housing is severe. While local law protects tenants from source of income discrimination, displaced voucher holders may still be at a great disadvantage in this market.

**(b) Adverse Impact on Voucher Holders**

As stated above, this rule would cause 55,606 voucher holders in New York City to face the choice of finding a new apartment, and risk losing their voucher if their search is unsuccessful or paying an increase in rent to stay in their current neighborhood and risk eviction if they cannot afford to pay the increase. New York City voucher programs have an unusually high proportion of elderly and disabled households who are adult households. Indeed, 52% of the affected households are designated elderly or disabled or both. 63% of New York City voucher households have no children.<sup>20</sup> The great benefits of mobility described by Raj Chetty are felt by children under the age of 13. For children above the age of 13, mobility shows little or even

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<sup>19</sup> All apartments that had been on the Zillow website for more than sixty days were excluded from this analysis.

<sup>20</sup> HUD's Picture of Subsidized Households for Bronx County 2015.

negative effects.<sup>21</sup> Yet these households will be forced to move or pay increased rents for a policy that has little chance of improving their lives.

Indeed, there is much evidence that housing instability has adverse outcomes for families and individuals. Housing instability and homelessness have been linked to long-term adverse effects on children's health and development. In addition, frequent moves have had negative effects on children's educational progress. For the families who choose not to or cannot move, they will experience higher rent burdens. Research has shown that children in families with severe rent burdens face adverse educational and health outcomes due to lack of funds in their homes.<sup>22</sup>

Elderly and disabled households would be particularly harmed by the proposed policy. Elderly and disabled households tend to be on fixed incomes so any increase in rent will have to come out of their incredibly limited income. Growing research shows that stable housing may help outcomes for individuals with chronic illnesses, such as HIV.<sup>23</sup> Additionally, these households would not experience the potential advantage of these programs. Studies have shown for the elderly population longer tenures in buildings are associated with lower levels of depression.<sup>24</sup> Being able to age in place is associated with better physical and mental well-being.<sup>25</sup>

In New York City, fifty percent of voucher holder families have lived in their apartments for ten years or more. Housing stability means that low-income households do not have to come up annually with the added expenses of broker fees, security deposits and moving fees. Low-income families who stay in the same communities have the ability to develop informal networks who can assist them with child care and elder care. Families that move frequently to various neighborhoods around the City will not have the same opportunity to develop these informal networks.

The voucher program is more properly called the Housing Choice Voucher Program. HUD is to be commended in seeking to enhance the opportunities of those who choose to move to neighborhoods of high opportunity. However, because this proposal is cost neutral, it means that those who choose to stay or are unable to move will see their rents increase to fund the mobility of other families. The only way for the voucher program to live up to its dual goals of housing stability and mobility is to hold all current tenants harmless. No current tenant should face the risk of homelessness because HUD has designated their neighborhood a neighborhood of low opportunity.

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<sup>21</sup> Raj Chetty, Nathaniel Hendren and Lawrence F. Katz, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*; Harvard University and NBER, August 2015 at 3.

<sup>22</sup> Fletcher, Jason M., Tatiana Andreyeva, and Susan Busch, *Assessing the Effect of Increasing Housing Costs on Food Insecurity*. Social Science Research Network, September 9, 2009.

<sup>23</sup> Buchanan, David, Romina Kee, Laura S. Sadowski, and Diana Garcia. 2009. *The Health Impact of Supportive Housing for HIV-Positive Homeless Patients: A Randomized Controlled Study*. *American Journal of Public Health* 99 (S3): S675–S680.

<sup>24</sup> Robison, Julie, Jean J. Schensul, Emil Coman, Gretchen J. Diefenbach, Kim E. Radda, Sonia Gaztambide, and William B. Disch. 2009. *Mental Health in Senior Housing: Racial/Ethnic Patterns and Correlates of Major Depressive Disorder*. *Aging & Mental Health* 13 (5): 659–673.

<sup>25</sup> Viveiros, Janet, and Maya Brennan. *Aging in Every Place: Supportive Service Programs for High and Low Density Communities*. Center for Housing Policy, National Housing Conference, Washington, DC, March 2014.



(c) *Negative Impact on Volume of Rent Stabilized Stock*

Many neighborhoods that have been affordable for years are now facing extreme market pressures as land prices and rents are both on the rise across the five boroughs. At present, one million of New York City's three million housing units are rent-stabilized under New York State rent laws. Tenants living in rent stabilized units are afforded protections for rent increases and lease renewals under the law. Sixty-one percent of New York City's voucher tenants live in rent stabilized housing.<sup>26</sup> This means that they have the right to a renewal lease and limits on increases on yearly rents. Many of these tenants have lived in their homes for many years.<sup>27</sup> If the proposed HUD rule effectively incentivizes existing tenants of rent-stabilized units to move, an unintended consequence could be the deregulation of rent-stabilized units. Even if these apartments do not become deregulated, the landlords will be able to increase the legal rents on these apartments by at least 20% impacting affordability in low-income neighborhoods for all renters. A recent report found that the largest contributor to rent increases in rent regulated apartments is the statutory vacancy allowance which provides an automatic increase every time an apartment is vacant.<sup>28</sup> In addition, New York landlords are permitted to charge additional significant increases based on improvements after vacancy. New York City has rent stabilization because our legislature has determined that so long as our vacancy rate is under 5%, New York City's housing market must be regulated to protect tenants. So unlike other jurisdictions where if the market rent is lower than the "legal rent," the rent on the apartment would decrease, in New York's rent stabilized apartments, landlords offer tenants a preferential rent, lower than the legal rent. However, the legal rent may be charged at the end of every renewal lease. This lessens the protections for rent stabilized tenants who are no longer secure in their tenancy.

We have seen further evidence of the pressure to deregulate rent-stabilized housing in the a troubling pattern among some owners who deliberately allow apartments to fail the housing quality standards inspection and then simply wait for the subsidy to end and the contract to cancel. Tenants are then forced to move out of their homes to preserve their Section 8 subsidies. These tenants have found it incredibly difficult to secure new housing after been forced out of their homes. Because these tenants are rent stabilized, under the law, their landlord is required to offer a renewal lease on the same terms and conditions as the previous lease. However, some landlords have found a loophole to this requirement by using the Section 8 program to force tenants out of their homes. These landlord then benefit by charging vacancy increases of at least twenty percent to the next tenant. Based on this example we have little reason to expect that rent stabilized landlords will lower contract rents in their apartments to reflect HUD's assumptions of what market rents are. In many gentrifying neighborhoods, low-income long term tenants are able to remain in their neighborhoods because of their Section 8 voucher. Because the hypothetical SAFMRs incentivize tenants to move from these neighborhoods, the rule would have the unintended consequence of hastening gentrification and displacement from

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<sup>26</sup> Analysis of the Community Service Society.

<sup>27</sup> An Analysis of the Community Service Society using the HVS showed that in the private market, the median voucher household have moved into its apartment in 2006, the median low income household move into its apartment in 2008 and the median renter household moved into its apartment in 2009.

<sup>28</sup> Victor Bach & Tom Waters, Community Service Society, *Making the Rent 2016: Tenant Conditions in New York City's Changing Neighborhoods*, May 2016 at 2.

neighborhoods which are beginning to see the changes brought by new residents and new investment. And lowering the volume of affordable, rent-stabilized housing?

(d) **Negative Impact on PHA administration and program participants**

In a city like New York with almost 200 SAFMR zip codes, zip code boundaries are a meaningless geography. The sheer number would make administering a zip code based SAFMR impossible for tenants, landlords and housing authorities.

For voucher holders seeking housing, the process would be much more onerous and confusing with payments standard sometimes changing drastically on the same block. Unfortunately neighborhoods, which is how most New Yorkers think about their communities, do not follow zip codes and many zip codes cross over multiple neighborhoods. More confusingly, approximately 35 zip codes encompass no more than one city block, and some contain no more than one building. This change could also be a deterrent for landlords managing different payment standards at different buildings.

For housing agencies with many zip codes, this is a very complicated policy change to implement and surely one that will increase administrative costs through additional staffing requirements. The proposed SAFMR policy will also make it very difficult for housing agencies to manage budgets and utilization rates. When vouchers issued may hold enormously different values depending on where they are used, how will agencies predict unit months to ensure they stay within their budget and keep utilization high?

For all of these reasons, we recommend holding current voucher holders harmless to avoid the significant adverse impacts described above.

**Recommendation Four: Exempt Project-Based Vouchers from the Proposed Rule**

Thousands of affordable housing units in New York City have been developed with project-based vouchers underwritten at the Fair Market Rent. Reductions in SAFMR could jeopardize the financial stability of affordable buildings, the ability to maintain and preserve existing affordable housing through regular maintenance and repairs, service delivery to residents and revitalization of low- and moderate-income neighborhoods.

Project-basing mainly occurs in supportive and senior housing programs in New York serving extremely low-income disabled and/or elderly residents. Project-based vouchers often leverage private financing. In these cases, rental assistance is used to pay debt service on commercial mortgages, typically over 30 years. Most likely, lower SAFMR will result first in efforts to reduce maintenance costs before impacting debt service payments to lenders. Cutting corners on regular maintenance can lead to rapid deterioration of buildings and impact quality of life for tenants. Drastic reductions in SAFMR could prevent building owners from having sufficient cash flow to pay debt service and quickly put the buildings at risk of foreclosure.

Such action would not only impact existing tenants and owners while squandering public resources used to developer affordable housing, but it would also undermine a funding model

that uses federal rental assistance to leverage significant private financing. Without the predictability of rental assistance levels, financial institutions will not be willing to lend to projects with unreliable cashflow. More public subsidy will be required if private debt is not accessible, resulting in less affordable housing.

In some existing projects, the difference between FMR and tax credit rents are used to fund or supplement on-site social services. Lowering Section 8 rents in high-poverty areas could result in reduced services in existing housing, primarily targeted to formerly homeless households to ensure housing stability.

If SAFMRs apply to the project-based program, lower rents could also discourage the development of new projects that could uplift neighborhoods. Investment in affordable housing has transformed areas of Brooklyn, the Bronx, Harlem and the Lower East Side of Manhattan. With significant local commitment to affordable housing, New York City's 10 year housing plan is anticipated to invest \$41 billion in neighborhoods. Due to high land costs, many of these new affordable apartment buildings will be located in low-income communities. Our organizations support continued investment in low-income neighborhoods to provide more housing options for local residents and to spur investment and community revitalization.

**Recommendation Five: Delay implementation Until Program Changes Are Accompanied By A Significant Budget Increase And SAFMR Policy Is Better Calibrated For Low-vacancy Areas**

We strongly support the goals of improving outcomes and housing options for low-income families in high opportunity areas and deconcentrating voucher use in low-income areas. However, New York City's voucher programs make up 21% of the vouchers in this demonstration project, and based on our deep knowledge of the New York City housing market, we strongly recommend that HUD delay implementation of this rule in any low-vacancy areas until there is a greater understanding of housing market conditions in localities such as New York City and a significant budget increase is made so that program benefits for some low-income families are not at the expense of other low-income families. These recommended changes, and the others set forth above, will help HUD to be more successful in reaching the goals behind the rule changes.

**Joint Comments Submitted By:**

- **Community Service Society**, 105 E 22nd St, New York, NY 10003  
Victor Bach, Senior Housing Policy Analyst, [vbach@cssny.org](mailto:vbach@cssny.org), 212.674.7787  
The Community Service Society of New York (CSS) is an informed, independent, and unwavering voice for positive action on behalf of more than 3 million low-income New Yorkers. CSS draws on a 170-year history of excellence in addressing the root causes of economic disparity through research, advocacy, litigation, and innovative program models that strengthen and benefit all New Yorkers.
- **The Legal Aid Society**, 199 Water Street, New York, NY 10038  
Contact: Judith Goldiner, Attorney in Charge, Civil Law Reform, [JGoldiner@legal-aid.org](mailto:JGoldiner@legal-aid.org), 212.577.3332

Founded in 1876, the Legal Aid Society's Civil Practice is the oldest and largest program in the nation providing direct legal services to the indigent. Annually, the Society's Civil Practice provides free direct legal assistance in more than 44,000 individual cases involving immigration, domestic violence, family law, and employment, in addition to housing, public benefits and health law matters, through a network of 16 neighborhood and courthouse-based offices in all five boroughs and 22 specialized units and projects for under-served client groups. The Society is counsel in numerous class action law suits involving the rights of Section 8 voucher holders including Williams v. NYCHA and McNeil v. NYCHA. Additionally the Society was instrumental in passing Local Law 10 which bans discrimination based on source of income which explicitly benefits Section 8 voucher holders.

- **New York Housing Conference Inc.**, 237 W. 37th Street, New York, NY 10018  
Contact: Rachel Fee, *Executive Director*, [Rachel.Fee@thenyh.org](mailto:Rachel.Fee@thenyh.org), 646.923.8542  
NYHC is a broad-based coalition that advocates for decent affordable housing for *all* New Yorkers. Working with community development organizations, affordable housing developers, financial lenders and other industry professionals, we promote strong housing policies, adequate funding, practical regulations, and increased public awareness of the need for and benefits of affordable housing in New York State.

### **ENDORSERS**

Associated Builders and Owners of Greater New York  
Association for Neighborhood & Housing Development (ANHD)  
Barrier Free Living  
Benchmark Title Agency  
Brooklyn Defender Services  
Center for Independence of the Disabled (CIDNY)  
Coalition for the Homeless  
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Housing Conservation Coordinators (HCC)  
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JASA/Legal Services for the Elderly in Queens  
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Lenox Hill Neighborhood House  
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MFY Legal Services  
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Neighbors Helping Neighbors  
New Destiny Housing Corporation  
New York Affordable Housing Management Association (NYAHMA)  
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NYC Housing Partnership  
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Shinda Management Corporation  
Tenants & Neighbors  
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Urban Homesteading Assistance Board  
Urban Justice Center—Community Development Project  
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I represent: \_\_\_\_\_

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Address: 250 BROADWAY # 2234 NY, NY 10007

I represent: 7TH ASSEMBLY DISTRICT

Address: \_\_\_\_\_

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Name: ELLEN DAVIDSON

Address: 199 WATER Street

I represent: The Legal Aid Society

Address: 199 WATER St

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Name: Eva Trimble

Address: HPD

I represent: \_\_\_\_\_

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Address: NYCHA

I represent: EVA TRIMBLE

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I represent: HPD

Address: 100 Gold St

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Name: Rachel Fee

Address: \_\_\_\_\_

I represent: New York Housing Conference

Address: 247 W 37<sup>th</sup> St NY

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Name: Mahkaddah Thompson

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I represent: Housing Court Answer

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Name: Aixa Torres

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I represent: Alfred E Smith Houses

Address: \_\_\_\_\_

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