

April 27, 2009

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VIA EMAIL AND MAIL

**Comments on the Proposed Rulemaking to
Amend the Local Rent Supplement Program Regulations,
to add a new section 9508**

Dear Ms. Mosley:

Pursuant to the Notice of Proposed Rulemaking published in the D.C. Register on March 27, 2009, the undersigned organizations are submitting the following comments on 14 DCMR §9508.

With the Local Rent Supplement Program (LRSP), DC has an opportunity to improve upon the federal Housing Choice Voucher Program to tailor it specifically towards serving DC residents who need affordable housing. We believe that these regulations are an excellent start in reducing the administrative barriers to LRSP and expanding the population of DC residents who are eligible for LRSP sponsor-based housing. We appreciate that the DC Housing Authority (DCHA) and the City Administrator reached out to the nonprofit housing provider community for its input. We would like to remind DCHA, however, that the LRSP stakeholders include more than just providers. Any policy decisions should be made in concert with tenant advocates and organizers, legal services and advocacy organizations and, most importantly, the people whom LRSP is intended to serve.

Ensure that all intended beneficiaries can indeed access LRSP

While we are pleased to see DCHA embrace a program design that is more focused on meeting the needs of all DC community members who need affordable housing, its efforts will be futile if providers refuse to refer applicants to DCHA who do not meet the providers' more onerous requirements. If DC government has decided as a matter of policy that the program should serve its residents regardless of immigration status or criminal history (with some mitigation or service requirements), then its contractors should either carry out that policy or forego receiving LRSP funding. Considering that Pathways to Housing was the only provider in the room that indicated a willingness to serve ex-offenders across the board, DC will continue to have large numbers of ex-offenders with no affordable housing options if DCHA does not take the lead by forbidding providers from discriminating in admissions on the basis of immigration status or criminal history.

In addition, the LRSP implementing legislation states that DCHA must promulgate rules to "govern the awarding of rent supplement funds... to providers of sponsor-based housing... The

rules may address eligibility, admission, and occupancy criteria, which serve the supportive housing goals of the housing development.” DC Code 6-227(b). It is clear from the statute that the intent of the Council was that DCHA has the sole authority to determine eligibility for the sponsor-based program, as this is a publicly funded housing benefit. As such, DCHA’s eligibility criteria as expanded in these regulations should specify that the only bases upon which applicants can be denied eligibility are delineated within, and all applicants denied eligibility should receive a notice and opportunity for informal hearing pursuant to 14 DCMR § 8900 *et seq.*

Expand eligibility to include applicants on the lifetime sex offender registry

Under these proposed regulations, people on the lifetime sex offender registry are still barred from admission to sponsor-based LRSP. We recommend that 9508.4 be expanded to include *all* felonies, and that DCHA remove the absolute bar to applicants on the lifetime sex offender registry. Excluding those DC residents with prior convictions for serious sex offenses is not good public policy. It is well-accepted that stable housing reduces recidivism among all persons with criminal histories, including those who have committed sex crimes. Even the National Alliance to End Sexual Violence has come out in support of reducing barriers to stable housing for those who have served time for sexual violence. The sponsor-based housing is perfectly suited to provide the individualized services that would prevent participants with these crimes in their past from re-offending. If this program does not allow space for this population, they will be forced to stay in shelters or on the street, where it is much more difficult to engage in recovery activities or comply with registry requirements.

DCHA has not articulated a strong basis for continuing to exclude this population from LRSP. Although there was some discussion of increased liability, no details were provided on the basis for this concern. We urge you to consider the recent statistical analysis that concluded that persons with criminal histories, including sexual offenses, are no more likely to “fail” in supportive housing than those with no criminal history: “Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders,” Daniel K. Malone, M.P.H., *Psychiatric Services*, February 2009.

Further reduce bureaucratic barriers by allowing affidavits as verification

Applicants experiencing homelessness sometimes undergo significant delays in obtaining housing because their papers have been lost, stolen, or even thrown away in the course of an eviction. This chapter attempts to expand the accepted documents for verifications, but DCHA should further expand acceptable documentation by allowing affidavits or certifications from the applicant, family or friends to suffice in limited circumstances when no other documentation is available. For instance, sometimes applicants are the only ones who can verify their date of birth, pursuant to 9508.2(c), or how long they have resided in the District, pursuant to 9508.2(i). In fact, if the Mayor’s Housing First Initiative continues to use LRSP as a mechanism to provide housing to those who are “chronically homeless,” DHS will be trying to place applicants who are the least “connected” to service or government agencies that could verify date of birth or residency. (In addition, many people experience homelessness for periods of time on the couches and floors of friends and acquaintances, with no official “housing or lease records.” They should be able to verify their residency with an affidavit from the person upon whose hospitality they have relied or others with firsthand knowledge of such informal arrangements.)

Technical changes for clarity

We are very much in support of granting eligibility to applicants without regard to immigration status. Section 9508.2 removes the verification requirements for citizenship status but does not state that DCHA will not consider immigration status in its eligibility determination. Because 9508.1 states the federal rules will still govern eligibility unless 9500 states otherwise, this chapter should explicitly state the intention of DCHA: that all otherwise eligible persons can participate in LRSP regardless of immigration status.

Similarly, 9508.4 needs an explicit statement of eligibility similar to the statement that begins 9508.3 (“An applicant who... owes a debt... shall not be deemed ineligible for participation in the LRSP.”) Otherwise, it is not clear that only felonies can be considered in eligibility.

Applicants will be forced to reconcile two sets of regulations to determine their eligibility. We suggest that DCHA add section between 9508.3 and 9508.4 stating: “In determining an applicant’s eligibility for admission to the sponsor-based LRSP, DCHA will review criminal background checks only to screen for felony convictions.”

Expand the regulations to the entire LRSP program

These regulations (other than the District residency provision required by the Council only for the sponsor-based program) should be expanded to cover the tenant-based and project-based LRSP. The policy decisions embodied in these regulations, with our recommended changes, are equally smart for the entire program. In particular, there is sometimes no distinction between project- and sponsor-based buildings for the residents who reside there—they receive individually-tailored supportive services and the contracting entity is a non-profit organization. Reducing administrative and eligibility barriers to the program would benefit applicants to all LRSP programs.

Expand the principles of reducing housing barriers to non-eligibility program requirements

DCHA should apply the same principles inherent in these regulations to non-eligibility-related bureaucratic and termination requirements of LRSP, as imposed by the federal Housing Choice Voucher Program (HCVP). For instance, termination guidelines including provisions related to alcohol or drug use will make it difficult for some of the most vulnerable people who are homeless to retain housing or for a sponsor to operate a Housing First program. Community stakeholders would be happy to sit down with DCHA and think through some of the changes in the program that will be necessary to adequately serve our neighbors who are homeless, and others who may not be adequately served by the strict standards of the federal HCVP.

Conclusion

Overall, we are in support of the direction of the proposed regulations and look forward both to a final draft that incorporates our comments and to the continued efforts of DCHA to craft housing policies to better serve the intended beneficiaries of the program.

Sincerely,

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