

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

March 25, 2015

The Honorable Julian Castro
Secretary
U.S. Department of Housing and Urban Development
450 Seventh Street, SW
Washington, DC 20410

Dear Mr. Secretary:

For decades, the Department of Housing and Urban Development (HUD) explicitly endorsed the use of a “one strike and you’re out” policy by public housing authorities (PHAs) when it comes to criminal activity. This policy was born out of the larger strategy of the “War on Drugs,” which sanctioned hardline positions against drug activity without a regard for the complicated nature of the issue, or of the painful and often counterproductive consequences of such a purely punitive approach. In general, the federal government has been slow to respond to the substantial research over the years that has demonstrated the ill-conceived nature of the policies from the War on Drugs era. HUD should do its part to achieve progress on this front by amending formal agency guidance on this issue to further discourage the use “one-strike” policies, and instead, encourage alternative measures that offer greater tenant protections and promote second chances through case-by-case considerations.

HUD’s most recent formal guidance specifically on this issue is from 1996, which encourages PHAs to adopt “one strike” policies within the material terms of its leases, making clear that “arrest and conviction are not necessary to trigger eviction.” In the name of providing safety for public housing residents, this guidance encourages PHAs to utilize their authority to be relentless and unforgiving in the face of criminal activity, not only on the part of the tenant, but on the part of anyone considered to be under the control of the tenant, including guests or other household members who are not on the lease. This has led to devastating and unfair evictions, including one incident in which a disabled senior was evicted because his in-home caretaker was in possession of drugs, even though he fired the caretaker as soon as he could find a replacement. Further, because PHAs have substantial discretion, there is no comprehensive data on how many PHAs continue to use “one strike” policies, or how many tenants are being evicted on the basis of these policies.

Although HUD has taken some measures to roll back the 1996 guidance under the Obama administration, HUD has stopped short of issuing formal guidance specifically on this issue. For example, HUD sent a letter to PHAs in 2011, and a similar letter to multifamily owners in 2012, asking them to “seek a balance between allowing ex-offenders to reunite with

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families that live in HUD subsidized housing, and ensuring the safety of all residents of its programs.” This indicated a significant and welcome shift in HUD’s position. However, there is still more that HUD can do to provide PHAs and multifamily owners with more specific guidance on this issue. That is why I am requesting that HUD issue formal guidance that will explicitly amend the 1996 guidance, and create more uniformity across all PHAs and multifamily owners on this issue through a set of model policies. For example, PHAs and owners should be required to take mitigating evidence into account when reviewing the pending eviction of a tenant due to criminal activities, or applicants with criminal records. Every tenant should have a right to a careful, case-by-case determination, and the blunt instrument of “one strike” policies undermines that basic philosophy.

For too long, “one strike” policies have been a stain on the federal government’s efforts to provide affordable housing to those in need, standing as a barrier to family reunification and contributing to the cycle of recidivism. I urge you to conduct a thorough assessment of HUD’s authority on this issue, and within the existing statutory constraints, do everything in your power to eliminate this stain and achieve progress on this front.

Thank you for your consideration of this important issue, and please contact myself or my staff Esther Kahng at Esther.Kahng@mail.house.gov with any questions about this letter.

Sincerely,

A handwritten signature in black ink that reads "Maxine Waters". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

MAXINE WATERS
Ranking Member