



July 29, 2024

Submitted via regulations.gov

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, D.C. 20410-0500

RE: Docket No. FR-6144-P-01 HOME Investment Partnerships Program: Program Updates and Streamlining

Thank you for the opportunity to comment on HUD's proposed rule *HOME Investment Partnerships Program: Program Updates and Streamlining*. Please accept this letter as the comments of the undersigned co-chairs of the Consortium for Constituents with Disabilities (CCD) Housing Task Force. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of a society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ discrimination and religious intolerance. The Housing Task Force works to ensure that all people with disabilities have safe, stable, accessible, affordable, and integrated housing that enables people to live in communities of their choosing, with full access to home and community-based services and supports.

Overall, the CCD Housing Task Force is supportive of the proposed rule. We have the following in response to HUD's request for specific comments.

Comment #3

HUD specifically seeks public comment on the proposal to require HOME-assisted units comply with NFPA 72, or any successor standard, to use hardwired smoke alarms or sealed or tamper resistant smoke alarms with ten-year non-rechargeable, nonreplaceable batteries, that provide notification for persons with hearing loss. The CCD Housing Task Force supports this requirement for all HOME-funded units including those that do not require rehabilitation or construction. Furthermore, CO2 alarms should also be accessible for people with hearing loss. The cost implication of these requirements is minimal, especially compared to the potential lifesaving impact. The US population 65 and over soared by 34 percent in the last decade, from 43 million in 2012 to 58 million in 2022. In the coming decade, the fastest growth will occur among those over 80¹.

Comment #4

HUD specifically seeks public comment on the proposal to require that a participating jurisdiction inspect at least 20% of the HOME-assisted units during its ongoing on-site inspections of rental housing. The CCD Housing Task Force supports this requirement. Furthermore, the proposed rule (see FR Vol. 89 No. 104 page 46631) states "When conducting inspections, the jurisdiction *should* [emphasis added] consider the project's compliance with accessibility requirements as determined by 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Titles II and III of the Americans with Disabilities

¹ <https://www.jchs.harvard.edu/housing-americas-older-adults-2023>

Act (42 U.S.C. 12131–12189) implemented at 28 CFR parts 35 and 36, and the Fair Housing Act (42 U.S.C. 3601–19) implemented at 24 CFR part 100, as applicable. These accessibility requirements apply to a project as a whole, including both HOME and non-HOME-assisted units. Where practicable, HUD recommends a participating jurisdiction select a random sample of units using a methodology that captures different unit types, features, and accessibility designations, and to the extent feasible, that the same units are not inspected in every inspection.”

The CCD Housing Task Force responds that the jurisdiction **must not should** review HOME-funded projects’ compliance with the various civil rights and fair housing accessibility requirements, and further ensure that every random sample of HOME-funded units include an appropriate variety of the accessible units available in the project as well as the common areas and property entrances and egresses.

Comment #9

HUD specifically seeks public comment on whether the requirements at § 92.253(b) and (d)(2) should be required for tenants that receive TBRA. The CCD Housing Task Force urges HUD to extend the full range of tenant protections to those tenants receiving HOME TBRA.

The CCD Housing Task Force appreciates HUD’s attention to ensuring that these tenant protections are accessible to people with disabilities, e.g., repeated references in 92.253 to accessible formats where necessary due to disability to ensure effective communication with a tenant. CCD appreciates that HUD seeks to minimize owner retaliation for tenant’s reasonable accommodation requests and that tenants cannot generally be required to accept supportive services. However, HUD enforcement of the regulation is required to prevent such retaliation. The CCD Housing Task Force has noted elsewhere that HUD should strengthen enforcement of reasonable accommodation requirements.²

The CCD Housing Task Force has some concern regarding the language at 92.253 (d)(1)(i)(B):

Other good cause may include when a tenant creates a documented nuisance under applicable state or local law or when a tenant unreasonably refuses to provide the owner access to the unit to allow the owner to repair the unit;”

It is the Task Force’s experience that these situations, particularly related to alleged nuisances, are often disability-related. People with disabilities are often disproportionately affected by nuisance ordinances that punish tenants for relatively innocuous conduct and frequent calls for emergency services. HUD’s Office of General Counsel has noted these ordinances often have the potential to lead to housing discrimination and may violate the Fair Housing Act.”³ We therefore urge HUD to remove this provision at 92.253 (d)(1)(i)(B) as a basis for good cause.

In the alternative, the regulations should put landlords on notice that these ordinances may violate federal civil rights laws. Potential language could include the following:

*Other good cause may include when a tenant creates a documented nuisance under applicable state or local law or when a tenant unreasonably refuses to provide the owner access to the unit to allow the owner to repair the unit, **but only when termination or refusal to renew a tenancy would be consistent***

² <https://www.hudoig.gov/reports-publications/report/hud-did-not-have-adequate-policies-and-procedures-ensuring-public>

³ <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.

with federal civil rights laws, such as the Fair Housing Act.

HUD's revised regulations should also remind housing providers of their legal obligations to grant reasonable accommodations before terminating a tenancy or refusing to renew a lease.

Conclusion

Thank you for your consideration of our comments.

Sincerely,

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