

01.28.21 | Alerts & Publications

## Recently Improved Tools for Public Housing Repositioning



Over the past few weeks, HUD has made some notable improvements to existing public housing repositioning tools. Public housing authorities (“PHAs”) and their developer partners who are considering repositioning public housing properties via the RAD program and/or via Section 18 demolition/ disposition should be aware of two recent updates.

First, on December 15, 2020, HUD published updated RAD contract rents for each public housing property, based on 2020 federal appropriations levels and a 2021 operating cost adjustment factor. For many public housing properties, these latest RAD contract rents are significantly higher than prior years’ RAD contract rents, and are often at (or above) the local fair market rent. These improved RAD contract rents will support the long-term financial feasibility of RAD-converting properties.

Second, on January 19, 2021, HUD issued new guidance (Notice PIH 2021-07) (the “**Notice**”) for demolishing and/or disposing of public housing property under Section 18 of the United States Housing Act of 1937. This new guidance replaces prior HUD Notice PIH 2018-04, explains the requirements for Section 18 demolitions/ dispositions, and discusses eligibility for Tenant Protection Voucher (“**TPVs**”) for such actions. Notably:

- **RAD/Section 18 Blends.** For properties that intend to combine RAD and Section 18 (and are not utilizing 9% LIHTCs), the Notice allows a greater percentage of units to be eligible for Section 18 disposition (and therefore, receive TPVs and the higher contract rents based on fair market rents for that percentage of units). This blend was previously limited to 25% Section 18 units and 75% RAD units in HUD Notice PIH 2018-04, but the Notice provides new blend options, as summarized in the following chart and explained below:
- If the hard construction costs are equal to or exceed 30% but are less than 60% of the Housing Construction Costs (“**HCC**”) as published by HUD for the given market area, at the PHA’s discretion up to 20% of the units in the converting property may be disposed of via Section 18, with the remaining 80% converting as RAD units.
  - If the hard construction costs are equal to or exceed 60% but are less than 90% of the HCC as published by HUD for the given market area, at the PHA’s discretion up to 40% of the units in the converting property may be disposed of via Section 18, with the remaining 60% converting as RAD units.



- If the hard construction costs are equal to or exceed 90% of the HCC as published by HUD for the given market area, at the PHA's discretion up to 60% of the units in the converting property may be disposed of via Section 18, with the remaining 40% converting as RAD units.
  - In this category, for high-cost areas (defined as those where the HCC exceeds 120% of the national average) at the PHA's discretion up to 80% of the units in the converting property may be disposed of via Section 18, with the remaining 20% converting as RAD units.
- **Small PHA RAD/Section 18 Blend**. The Notice also allows small PHAs (i.e. PHAs with 250 or fewer public housing units) to dispose of up to 80% of the units in the converting property via Section 18, with the remaining 20% converting as RAD units, if the PHA commits to closeout its public housing program in the future. This is an alternative to a Streamlined Voluntary Conversion.
- **Tenant Protection Vouchers**. As part of HUD's approval of a Section 18 demolition/disposition application, a PHA may be eligible to receive TPVs from HUD, which can then be converted to project-based vouchers. The PHA must separately apply to HUD for the TPVs, even if HUD has approved their Section 18 demolition or disposition application. While TPVs are generally awarded based on the number of units that are occupied at the time of the TPV application and/or the Section 18 demolition/disposition HUD approval, the Notice states that HUD will limit the maximum TPV awards for dispositions that are based on improved efficiency or effectiveness to 25% of the occupied units at the property. In effect, this is designed to disincentivize PHAs from using Section 18 to convert properties that are not physically obsolete or located on a site no longer appropriate for housing.

## Author



Chris Hornig  
Partner  
[chornig@kleinhornig.com](mailto:chornig@kleinhornig.com)  
202.926.3402

## Related Services

- HUD
- Public Housing Redevelopment and Rental Assistance Demonstration