

## Comments and Responses to the BHA FY 2013 Annual Plan.

The following document contains the comments and responses received on the BHA's FY 2013 Annual Plan. The Plan was put out for public comment on November 1, 2012 and the comment period closed on December 15, 2012 with a public hearing held December 10 2012 in the Boston Public Library Copley Square Branch mezzanine conference room at 11:00 am and a second hearing held later that same day at 6 pm at Boston City Hall Room 801.

The BHA took several steps to notify the public of the FY 2013 Annual Plan and the opportunity to comment. The BHA placed an advertisement in the Boston Globe and mailed out over 20,000 flyers to public housing residents and Section 8 participants notifying them of the Public Hearing and the proposed Plan. The BHA also sent letters to many local officials and advocacy groups. The Plan was made available for review at task force offices, BHA's headquarters at 52 Chauncy St., on its website [www.bostonhousing.org](http://www.bostonhousing.org) as well as in the Government Documents section of the Copley Branch of the Boston Public Library.

Please Note: AP refers to Annual Plan, S refers to the

Supplement to the Annual Plan, and PR refers to Progress Report. Some page numbers may change in the final Plan submission.

### **Proposed Changes to Public Housing Admissions and Continued Occupancy Policy and Leased Housing Administrative Plan:**

Comment: These comments are offered by AIDS Action Committee of MA in response to the proposed changes to the Boston Housing Authority's ACOP and Administrative Plan. Specifically, these comments will address the proposal to include in the Glossary section of the ACOP and Administrative Plan a definition for Temporary/Transitional Housing Assistance.

AIDS Action Committee (AAC) provides housing search and advocacy services to hundreds of low-income clients each year. All of these clients are seeking safe, affordable, permanent housing, and many are currently homeless or unstably housed. We often work with clients who are in transitional housing programs, and often work with clients living on the street or in shelter to move into such programs. We work with clients who are homeless, including those in transitional housing programs, to apply to all applicable housing opportunities, including those offered through Boston Housing

Authority, with the knowledge that these clients will be considered homeless by BHA.

After reviewing the proposed changes to the ACOP, AAC has concerns regarding the definition of Temporary/Transitional Housing Assistance. The revisions to the Glossary state that "Housing assistance provided to Applicants who receive rental assistance from a state or federal agency which is an extension of a shelter program that last for twelve months or less and/or does not have self sufficiency goals as part of its program will be considered temporarily/ transitionally housed and therefore homeless for purposes of preferences and priority under this policy." The phrasing of this definition is unclear and does not convey plainly the way in which this definition would be applied. As an agency offering housing search and advocacy services, we would neither be confident in explaining this definition, as currently written, to our clients nor in assessing a temporarily housed client's homeless status, based on this definition.

According to the McKinney-Vento Act, "The term 'transitional housing' means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period

as the Secretary determines necessary.” Using this definition, residents of transitional programs such as Victory Transitional House, Women’s Hope, Umami’s, Nazareth Residence, Proyecto Opciones, and others, all of which are specifically available to those living with HIV, are able to qualify as homeless. The residents of these programs do not have viable housing options beyond the length of these programs, unless they are able to obtain a subsidy before the end of the transitional program. In addition to contending with multiple health concerns, residents spend the duration of these programs seeking permanent, subsidized housing. Applications to BHA are often a critical part of this housing search, and residents of these programs rely on the acknowledgement of their status as homeless by BHA. Currently, residents of these programs are considered homeless by BHA and under the McKinney-Vento Act definition, and are often able to use their time in transitional housing to stabilize their health, build a network, access resources, and transition safely and effectively into permanent, subsidized housing. Under the new definition, it is not clear that these residents will be able to retain their homeless status, or that residents of these programs in the future will be granted such a status. This

change could deny these residents of what they know to be true, that they are homeless, and would severely jeopardize their ability to stabilize many aspects of their lives, including, critically, the procurement of safe, permanent, affordable housing before the conclusion of their time in the transitional housing program. The programs listed above are only a few examples; there are many other temporary and transitional housing programs whose residents could be impacted in a similarly negative way under the proposed definition of Temporary/Transitional Housing Assistance in the BHA ACOP.

The language of the proposed definition is ambiguous, and therefore risks lending itself to misinterpretation and further confusion. The name “Temporary/Transitional Housing Assistance” evokes questions regarding a possible distinction between “transitional housing” and “transitional housing assistance.” Is there a difference between these two terms? Are transitional programs where the rental assistance is project-based covered by this new Temporary/Transitional Housing Assistance definition? Is this new definition not meant to address transitional programs where all participants live in the same building? Does the meaning of “housing assistance,” as it is used in this definition, apply

interchangeably to tenant-based and project-based assistance? We are concerned that a potential consequence of this definition will be the rendering of clients in certain transitional programs as no longer homeless. Further consideration of this definition is needed in order to avoid confusion and unintended results.

In addition, other ambiguities in this definition include a lack of clarity around phrases such as “extension of shelter” and “self-sufficiency goals”, as well as which housing programs, specifically, would be considered to provide “rental assistance.” It is not clear which Applicants would satisfy this criteria. For example, does “extension of shelter” include programs like HomeBASE and ESG, only? Does it also include programs where clients moved from a shelter into the transitional housing, or where clients moved from a treatment program or hospital into a transitional program and did not come directly from a shelter? At AAC, we work with clients who are in all of these situations, and who would be considered homeless under the current definition used by BHA to evaluate preference and priority status, but who might no longer qualify, under the new definition.

There is a similar ambiguity surrounding the use of “and/or”

when starting that the housing assistance must last for “twelve months or less and/or does not have self sufficiency goals as part of its program.” This phrasing elicits questions such as, can the program be more than 12 months, as long as there aren’t any self-sufficiency goals, or, inversely, can the program have self-sufficiency goals, as long as it is limited to twelve months or fewer? Further, how, specifically, is self-sufficiency defined? Is it the ability to rent an apartment on the market, the ability to move into permanent, affordable housing, or something else altogether? The vast majority of our clients who currently reside in transitional programs, including those that last for more than twelve months, will not be able to rent a market rate apartment at any point in the future, as they receive a fixed income due to disability. They do, however, have the goal of living more independently and obtaining permanent, affordable housing—meaning, for them, finding subsidized housing. It is not clear from the proposed definition whether or not such clients would continue to be considered transitionally housed, and therefore homeless. If these clients are no longer considered homeless, this will raise a significant obstacle in their path toward obtaining subsidized housing and living more independent and fulfilling lives.

Given the ambiguous language in this definition, and the subsequent risk of inconsistent interpretation resulting in unintended consequences of its application, if this term remains in the Glossary, we believe that clients/Applicants, housing advocates, and BHA staff will all benefit from further consultation regarding and revision to this definition. While we understand the possible benefits to defining the term “transitional housing” as part of the ACOP, AAC recommends that BHA retains, for the meantime, the current definition of homeless, which would include therein the HUD definition of transitional housing and defers finalizing a definition of Temporary/Transitional Housing Assistance until they have conferred with relevant stakeholders.

Thank you for taking the time to consider these questions and comments.

Response: Thank you for your comments. The BHA will review and revise the proposed language. BHA will use HUD’s transitional housing and temporary housing definition.

Comment: HomeStart is submitting written comments for BHA’s Annual Plan (comment seconded by St. Francis House). HomeStart has enjoyed an excellent partnership with the BHA, and we will work to continue to

foster this relationship. Our shared collaboration has benefited homeless clientele in the City of Boston, and the BHA should be commended for their willingness to work with the community around creation and implementation of ideas. Below are HomeStart’s comments: Definition of Temporary/Transitional Assistance: HomeStart commends the BHA’s action to define a category for homeless people who enter into short term subsidy situations through their shelter/homeless program. HomeStart has two concerns about the definition that require further clarification.

Transitional Living Programs for Homeless Persons: Currently, the BHA considers homeless people living in transitional living programs meant for homeless people (these typically last anywhere between 6-24 months, and they are typically funded through homeless resources such as HUD McKinney funds, DHCD family shelter funds or VA Per Diem funds for example). Examples of Transitional Living Programs that BHA currently considered homeless (this is not an exhaustive list) are Betty’s Place run through Project Place, Project SOAR run through the Boston Public Health Commission, Men’s Transitional Program run through Pine Street Inn, and Second Home run through Children’s Services of Roxbury.

HomeStart would like to clarify through these comments that transitional living programs for homeless persons do not fall under this new definition of “temporary/transitional assistance”. If these programs do fall under this new definition of “temporary/transitional assistance”, HomeStart has strong concerns because many current transitional living programs will not fit into this new definition due to the 12 month cap and the presence of self-sufficiency goals; this would have unintended consequences, such as hindering the City of Boston’s efforts to move 60-70% of transitional living program participants to permanent housing each year. Additionally, HomeStart would like to engage in further conversations with the BHA and other stakeholders about some specifics of this new definition of temporary/transitional assistance. Our strongest concern is that all of the rapid re-housing/short term/cliff subsidy programs that HomeStart thinks this new definition is intended to categorize, have self-sufficiency goals attached to them. HomeStart would like the opportunity to engage with the BHA around modifying the definition so that it has the intended goal of the BHA’s intention, as well as protecting the definition from unintended consequences for the homeless community. HomeStart would

also be willing to convene stakeholders to consolidate providers’ ideas if the BHA would find that to be helpful.

Response: Thank you for your comments. The BHA will review and revise the proposed language. BHA will use HUD’s transitional housing and temporary housing definition.

Comment: Documentation of Outside Homelessness: HomeStart, (comment seconded by St. Francis House) as well as other Boston-based agencies continue to experience difficulty documenting outside homelessness for the BHA. Below is a list of issues that have come up:

a.Documenting outside stays for purposes of housing history vs. purposes of priority status: HomeStart believes, per the BHA’s ACOP, that there should be a difference between the burdens of verifying an outside stay for the purposes of housing history than for the purposes of priority status.

If someone is documenting priority status, HomeStart understands that the BHA is looking for specific types of third party documentation from specific sources (outreach workers, doctors, police, clergy, etc.) to show the applicant was indeed sleeping outside.

However, HomeStart has observed that this same burden

of documentation has been put on clients where an outside stay is in their housing history, but not in the dates of their priority status. If a client is only trying to prove a stint of outside homelessness for their housing history, screeners are often asking for the same exact type of documentation (which can be very hard to get for outside sleepers), that they would ask for priority (outreach worker, doctor, police, clergy, etc.). If the applicant cannot provide this, they are sometimes withdrawn due to lack of sufficient documentation for housing history.

HomeStart asks that if someone is providing documentation of an outside stay for purposes of housing history only, that the housing history screening requirements that are in the ACOP are used (options are given for a shelter reference, a neighbor reference, etc.). So for example, many clients will sleep in the hallways of their relative’s building; the relative will provide documentation of this. HomeStart believes this should be accepted for people documenting housing history only, and should be used as a shelter/neighbor reference.

Response: Thank you for your comment. The BHA is not proposing any changes to the screening and priority verification requirements. However, the BHA has always provided clients with different

alternatives to prove the claimed priority status as well as their housing history through various third party verifications.

Comment: Consistency between types of outside stay documentation the Leased Housing and Occupancy Depts. are willing to accept to prove priority status

HomeStart (comment seconded by St. Francis House) has witnessed discrepancies between the Leased Housing and Occupancy Department's willingness to accept various types of documentation to provide an outside stay for priority status. For example, last year in the comment period, the BHA stated that it was open to doctors/medical providers proving outside stays. HomeStart has seen the Occupancy Department implement this, but has only seen the Leased Department implement this on an inconsistent basis.

Additionally, both departments have the option of allowing applicants to self-certify their outside homeless stay if the applicant can demonstrate why third party verification is impossible to obtain. HomeStart sees this provision very rarely offered to applicants and would like to understand in what circumstances should both programs (Leased and Public Housing) allow a self-certification to happen.

Additionally, it is important to note, that HUD's guidelines for programs serving homeless persons such as HomeStart, to document outside stays always include a self-certification provision.

HomeStart would like to thank the BHA for listening to our comments. HomeStart would like to reiterate that we highly appreciate the working relationship that is present; HomeStart is continually impressed by the vast number of housing units, applicants on waitlists, and policies/procedures the BHA manages, while at the same time working so closely with the community to provide better access to these resources.

Response: Thank you for your comments and your valued partnership with the BHA. BHA is not proposing any changes to the third party verification requirements. The BHA does work closely with advocates and clients and allows various alternatives for third party verification. The BHA Leased Housing Department will continue to work with clients and service providers regarding acceptable forms of verification. The BHA Leased Housing Administrative Plan does not allow for self certification of Priority Status. Parties self certify at time of application only, but all Priority Statuses must be verified via third party at determination of eligibility.

The BHA will continue to work with its partners in improving the quality of procedures to better serve our clients.

Comment: (Also Civil Rights) Commenting on proposed Annual Plan changes and amendments to ACOP for Public Housing and Administrative Plan for Leased Housing programs.

Hearth is an agency committed to ending elder homelessness. We operate supported permanent housing sites and provide homeless and at-risk outreach services to older adults in Boston. Our outreach services are focused on housing search, case management, and stabilization; we serve over 350 homeless individuals a year. Through our advocacy for our clients and our properties, we have become liaisons to the Boston Housing Authority and are formal partners with the BHA and the City of Boston in the efforts to house homeless individuals who dwell in Boston streets and emergency shelters. The Hearth Outreach team has a strong relationship with the BHA and significantly facilitates processing of applicants. We meet monthly with the Occupancy Dept. to review complex applicant cases, manage communication between BHA and applicant, and coordinate timely documentation /verification. Hearth owns and operates several PBV sites and is a participant in the pilot

program to address vacancies and screening efficiency.

In solidarity with other advocacy agencies such as HomeStart and Greater Boston Legal Services, a Housing Task Force has been created to serve as an informant and partner to the BHA on matters of mutual importance such as educating applicants on navigating the BHA system, linking applicants with appropriate priorities and preferences to housing opportunities, and streamlining processes. Hearth would like to contribute the following five comments:

1. Reasonable accommodations: The procedure is not transparent and there are many inconsistencies on how these requests are handled. We request that it be made clear who the point people are at BHA that currently make these determinations, what criteria are used, and what communications are required around approvals.

Response: Thank you for your comment. For the Occupancy Department the supervisors, Assistant Director and Director review and make the final determinations for all applications processed in this department. The Occupancy Department staff engages in the interactive process with the clients, health care providers, other professionals depending on the type of requested accommodation, as well as other

BHA staff as needed in order to make a final determination on a case by case basis. The public housing Transfer Review Committee, consisting of a designated staff from the Operations, Legal, Occupancy, and Office of Civil Rights departments review each reasonable accommodation transfer request and engages in the interactive process with various health care and other professionals as well as other BHA staff personnel as needed to make a final determination regarding the requested accommodation. The Reasonable Accommodation Coordinator, Douglas Wilcox, works closely with the Transfer Review Committee and the Occupancy staff assisting with the interactive process as needed on a case by case basis.

For non-transfer related reasonable accommodation requests in the public housing program, the development manager is the first point of contact. Additionally, any public housing resident may file a reasonable accommodation request directly with the Reasonable Accommodation Coordinator.

For the Leased Housing Department the BHA Leased Housing Reasonable Accommodation in Rental Assistance Policies and Procedures ("RARAPP") details the process by which a Reasonable Accommodation is

reviewed and by whom such final determinations are made. The Leased Housing Department is working to provide additional information (specific staff structure) with the Resident Empowerment Coalition ("REC") through the "Navigating the BHA Initiative", which will identify the staff structure in the Leased Housing Department and the responsibilities of staff, so that the BHA can better serve providers and clients.

Comment: 2. Standardization for the LH/PH program screening process: Denials for this housing opportunity are complicated by the difference in public housing standards and leased housing standards. There is no understanding around when the denial is a public housing owner denial vs. a section 8 program denial. The applicants should be able to remain on leased housing waiting lists in many circumstances. We request that the applicant be clearly notified as to what eligibility if any remains. Current denial letters just imply leased housing ineligibility.

RESPONSE: Thank you for your comment. The BHA continues to review these processes to ensure it adds clarity for all involved parties. There are existing and distinct notices for the Section 8 qualification requirements per the Administrative Plan and once the clients successfully completes

the Section 8 requirements, they are referred for the landlord screening process per the Admissions and Continued Occupancy Policy (ACOP). A fact sheet has been created as well in order to assist clients to better understand both requirements. All clients for any of the Project Based and Moderate Rehabilitation programs are required to successfully complete two distinct screening processes: 1) Section 8 requirements per the BHA's Administrative Plan and 2) Landlord requirements per the Landlord's criteria. For the Lower Mills and Heritage Corporations the requirements are per the Admissions and Continued Occupancy Policy (ACOP).

Clients who successfully complete the Section 8 requirements but fail to complete the Landlord's screening process are considered to have rejected an offer and therefore, per the 2011 Administrative Plan are removed from all Project Based and Moderate Rehabilitation waiting lists. However, if the Applicant successfully completes the Section 8 requirements screening and also completes the Landlord's screening requirements but the Landlord denies the client due to criminal record, housing history, etc., the applicant is removed only from that specific Project-Based or Moderate Rehabilitation waiting lists since other Landlord requirements may be different.

An applicant will receive a determination first, with regard to Section 8 eligibility. If an applicant is denied Section 8 eligibility they will be withdrawn from all project based waiting lists. An applicant who is withdrawn for eligibility for Section 8 will not receive a communication from any Owner including Heritage and Lower Mills.

Comment: 3.Obtaining status and updating application: It is crucial for applicants and advocates to be able to obtain the status of their applications and points as well as being able to update them easily. Currently the status line and housing service center have long waiting lines and the information is difficult to obtain especially for those who have language and other barriers. Lead advocates who work closely with BHA such as the Hearth Outreach Team have been trained and are able to evaluate development choices more closely with applicants, prepare documentation, and maximize the appropriateness of these applications. We request that the service center be able to provide key information more efficiently to applicants and advocates.

Response: Thank you for your comment. The BHA is always working with clients and advocates and implementing changes that may continue to improve our customer service.

All submitted suggestions are welcome and implemented where feasible. As you are aware we do work with limited resources.

Comment: 4.Priority verification for Leased Housing applicants: Our involvement in the pilot program has shed important light on the vacancy issues for PBV units. It is important that outreach be done to appropriate candidates for specialized supported programs. The current process allows for self-certification and unclear property descriptions which leads applicants to either be ineligible for the programs or not interested. Moving to third-party verification of priority status will greatly improve this process and better inform applicants of their true opportunities for housing. Older homeless adults, not able to fully appreciate the criteria and development specs, will often rest on waiting lists for close to a year only to learn at screening that they do not qualify for the opportunity. Without an advocate they cannot focus on the housing that they are eligible for. Third party or initial verification of priority status will clarify eligibility, minimize frustration, and significantly speed up the screening process.

RESPONSE: Thank you for your comment. BHA will consider making such changes in the future.

Comment: 5. Special considerations for older adults: As exemplified above, there are many unique barriers that older homeless adults face when they are in desperate need of housing. It has been well documented in numerous studies that homelessness dramatically accelerates the aging process, to the degree that homeless older adults often have a clinical age 15 years older than their chronological age. For this reason, our agency wisely focuses on older homeless adults that are not just 62 or older but that are 50 and older. They are frail, disabled, often without the ability to navigate the BHA system on their own. Our clients typically have limited supports in the community. Many of them are without the ability to improve their income and are functionally unemployable. This population does not have a loud or strong voice; they do not readily reach out for assistance. We learned from our outreach efforts that even the elderly who are homeless do not know to sign up for priority housing at the BHA and few of them make it onto your elderly-disabled lists without the assistance of an advocate who understands their needs. Hearth has taken a lead role around advocating for this population and offers collaboration and expertise around the effort to safely house this vulnerable group. We appreciate our liaison relationship with Gloria Meneses

and Nancy Otero in the Occupancy Dept. We seek to further relationships with the other departments at BHA so that we can best facilitate your work with these applicants.

Thank you for your consideration.

Response: The BHA always welcomes and appreciates building relationships with agencies with the mutual interest to assist our clients as much as it may be possible. The BHA is committed to continue serving the elderly, disabled, and families with most dire needs. Thank you for your comments. The BHA looks forward to expanding and continuing our relationship with you in the future.

Comment: Hi. My name is Judith [Levin] and I'm a lawyer at the Mass. Law Reform Institute. Everyone who has spoken here today is a resident, either a voucher resident, Section 8, or a public housing resident. But I'd like to say something about the plan. On behalf of people who would like to be BHA tenants, who would like to be Section 8 tenants, that is, people on the waiting list who are trying to get in, there is one part of the proposed plan that makes that a lot harder for people who had been homeless and then were offered short-term, temporary rental help. Sometimes there are a couple of programs in the state or in

the city where people who are facing homelessness or have been homeless can sign up for a program in which they live in a rental unit for a short period of time, maybe a year, sometimes two years.

The current plan says that folks that are living in "transitional housing," which is what most of these programs are, are considered homeless because their program is going to end. They were homeless. So, they get what's called a priority for BHA housing. What this new plan does is it gives a definition of transitional housing. It supplies the definition of transitional housing that would effectively eliminate every person who is on a transitional program in Boston now. It's kind of a definition that is so narrow that nobody can fit into it.

We were told that BHA would reconsider that because the folks who are on these temporary programs were all told by various public officials that they would not lose their preference for a priority for BHA and for other places if they signed up for these programs. People in shelters have that preference, and this is sort of another form of shelter. That's going to yank the rug out from underneath them. There are very few of these programs. The largest one is called Home Base and BHA has already made an arrangement for 200 units, and that's not finished yet. I think they're still in the



process of doing that for those programs.

The rest of the rental assistance programs are very small. There are maybe 100 in one and maybe 60 in another. But every single program that exists would be disqualified because of what you propose. So, what we ask is that either to leave it the way it is, and the way it is, is BHA hears about a program, someone comes to apply, and BHA analyzes the program and tries to figure out if it's a transitional program. If it is a transitional program in which you're otherwise eligible, you could get a homeless priority. We ask that you keep it that way.

Or, if you're uncomfortable keeping it that way, take a much more nuanced approach. We'd be happy to work and try to figure out ways that would limit the kinds of meat cleaver that you've put forth in this definition of transitional housing; again, a definition that includes no transitional housing as far as we can figure out. So, we ask you to either maintain it the way it is and look through these programs, there's only about four of them outside of Home Base and they're not very big, or otherwise get creative and think of some other ways that would limit the all-or-nothing approach that you've taken in this. So, we ask you to rethink this and reach out to anyone who might have some ideas to soften the impact of

whatever your goal might be. Thank you.

Response: Thank you for your comment. The BHA will take it into consideration. The BHA will review and revise the proposed language. BHA will use HUD's transitional housing and temporary housing definition.

Comment: COMMENTS ON ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP) AND SECTION 8 ADMINISTRATIVE PLAN AND RELATED POLICY/ADVOCACY ISSUES

Most of the proposals that BHA has made for changes in the ACOP and Administrative Plan are relatively minor. We agree with a few of the changes as is. There are two instances when a change was only made in one policy and we think it would make sense to make parallel changes in the other policy for consistency. In two other areas (where proposed changes were suggested to the Administrative Plan and not the ACOP), we think there are good arguments why the "clarifications" will in fact make the policies less clear, and why existing language should be retained. Some clarifications are needed on the Mod Rehab termination change proposed by BHA, as well as in reference to removal of default only upon a showing of compelling circumstances. Finally, regarding the definition of

"transitional housing", there needs to be further discussion with affected advocacy groups, and some alternative suggestions are made here. If BHA in fact goes forward with a changed definition, we would recommend that this only be applied prospectively to new applicants, and those applicants who have already applied, who fit within the present definition, and who continue to qualify under that definition be grandfathered.

Separate and apart from the specific proposals BHA has put forward for ACOP and Administrative Plan changes, there are a few other ACOP and Administrative Plan-related policy and advocacy issues that are worth further discussion, perhaps outside of the PHA Plan process and over the course of the coming year, as outlined below.

Response: Thank you for your comment. See responses below.

Comment: ACOP/Admin Plan Changes That Can Be Supported Without Any Change:

The following changes make perfect sense without any change:

1. *Grievances and Appeals Department*: In the ACOP, replacing the reference to the Office of Civil Rights with the Grievances and Appeals Department. See Chapter 4, at § 4.1.4 (pp. 30-31) and § 4.4.3

(p. 37). Moreover, it makes sense for the division in reasonable accommodation responsibilities to be separated between Occupancy (on substantive matters) and Grievances and Appeals (on issues having to do with the hearing, such as whether a telephonic hearing might be permitted for a home-bound applicant or whether a tenant or applicant had a disability-related reason to fail to request a hearing on time), depending on the nature of the accommodation. It also makes sense to give the option for a remand to Occupancy, in a case where a reasonable accommodation issue is raised during or after the hearing request. However, it is important that applicants not be unduly delayed in the processing of their cases as a result, and that Occupancy and/or Grievances and Appeals act relatively promptly in deciding what the appropriate follow up will be. See Chapter 4, at § 4.1.4 (pp. 30-31).

Response: Thank you for your comments and support.

Comment: 2. *Annual Update:* In the ACOP, not requiring an annual update if the applicant has otherwise relayed to BHA a waiting list interest within the prior 12 months. See Chapter 3, § 3.3.4 (p. 23) and Chapter 4, § 4.1.3.1.f (p. 28).

Response: Thank you for your comments and support.

Comment: 3. *Resident Custodians and Special Assignment Laborers:* In the ACOP, referring to license agreements and their terms as governing eligibility for resident custodians and special assignment laborers. See Chapter 10, § 10.5 (pp. 159-160). It is necessary to do some level of screening to determine if it is appropriate for such individuals to live in the development (including the normal type of criminal history checks); such individuals, however, would not be regarded as “tenants” if they have simply obtained their apartments in conjunction with employment. (Such situations are to be distinguished from residents who subsequently obtain BHA employment—such residents do NOT lose their tenancy rights/status as a result of such employment.)

Response: Thank you for your comments and support.

Comment: Changes Which We Support But Where Parallel Changes Should be Made in the Other Policy

1. *Opportunity to Pay Off Debt Before Final Screening Should Apply to Both Public Housing and Section 8:* The Section 8 Administrative Plan has been revised, at Chapter 5, § 5.2.3 (p. 43) so that applicants who owe a debt to the BHA from a

prior public housing tenancy or from prior participation in the Section 8 program can pay off this debt in the period between initial application and the time they are called in for final screening, rather than being required to pay the full sum up front in order to be eligible for listing at all. We appreciate BHA’s willingness to do this, and think it will improve collection of debts and will give applicants a reasonable opportunity to raise the needed funds over time. But this policy should be extended to public housing as well.

Furthermore: (a) applicants’ statutory right to present mitigating circumstances as to their debt should be embodied in both documents; (b) debts should be limited for both programs to those that are “currently owed”, i.e., within statute of limitations and/or not discharged in bankruptcy; and (c) BHA should retain sufficient back-up documentation on any debt so that it can be properly analyzed to be sure that it was not the result of miscalculation or error.

Response: Thank you for your comment and support. Please be advised that this language already exists in the Admissions and Continued Occupancy Policy (ACOP) and was implemented effective September 1, 2012. The BHA Leased Housing Department will consider making revisions upon further review.

Comment: 2. *Clarifying Treatment of Non-Payment Evictions for Priority 1 Status:* Similarly, BHA has proposed to amend the ACOP, at Chapter 4, § 4.4.3.3.E (pp. 41-42), to clarify the types of non-payment evictions that may be regarded as “without fault” due to a change in circumstances which was beyond the tenant’s ability to control or prevent (loss of income, change in household composition, etc.) There should be a parallel change in the Section 8 Admin Plan which uses the same Priority 1 definition (at § 3.3.5(d)(5), pp. 28-29).

Response: Thank you for your comment and support.

Comment: Proposed “Clarifications” That We Think Should Be Abandoned as Likely Causing More Problems Than They Will Solve

1. *Treatment of Doubled-Up Applicants:* For a long time BHA has made clear that it does not include “doubled-up” applicants within the “homeless” definition. However, BHA has proposed a change in the Section 8 Admin Plan (at § 3.3.5(d)(9)), but not in the ACOP (at § 4.4.3.3.J., pp. 43-44), which would eliminate reference, for those applying for Section 8, to those doubling up in private housing. Thus, as redrafted, it would appear that you could qualify for homeless

priority for Section 8 if you were doubled-up in private housing.

BHA’s likely intent here was to advise applicants that it is NOT advisable for them to double up in public or subsidized housing if they are seeking priority, since they would be putting the tenant or participant at risk. Moreover, public housing tenants and Section 8 participants can seek BHA approval to add household members through normal screening processes (which would include checking criminal history). However, deleting the words “private or” doesn’t help with this, and it in fact sends the wrong message that applicants can double up in private housing and claim priority homeless status.

It is true, under BHA’s preference system, that a person who has been involuntarily displaced (such as by natural forces, domestic violence, or condemnation) SHOULD CONTINUE TO QUALIFY FOR THAT INVOLUNTARY DISPLACEMENT STATUS until they secure permanent standard replacement housing, i.e., housing that is leased to them and which is of sufficient size to accommodate all family members. This was the way HUD’s federal preference rules worked, and BHA carried those rules forward post-QHWRA. However, such preferences are NOT the “homeless” preference, which is based on being in shelter, transitional

housing, or in places not intended for human habitation. So while there are a number of cases in which “doubled up” applicants may continue to qualify for Priority 1 status because they were involuntarily displaced and have not yet secured standard permanent replacement housing, this is not under the “homeless” category. It only causes confusion to eliminate what was relatively clear language in the current ACOP that those who are doubled up are not considered homeless.

For both the ACOP and the Section 8 Administrative Plan, then, BHA should add language to the involuntarily displaced categories to track the old “standard permanent replacement” concept, since this distinction is not well-understood, but not tinker with the bar on doubled-up clients not fitting within the homeless definition.

It may be that at some point BHA may want to revisit the treatment of doubled-up families generally (beyond those qualifying as involuntarily displaced). This has come up in the HEARTH Act, in compelling documentation provided by the Medical Legal Partnership about the health impacts on children of prolonged unstable living environments, and in the current debate over EA shelter admissions standards. But this obviously is complex and will

need to draw in a number of stakeholders.

Response: Thank you for your comment. The BHA will revise this section accordingly.

Comment: 2. *Temporarily Absent Family Members*: Both the ACOP and the Administrative Plan have long had the concept that there may be members of a household who are temporarily absent for good reasons, but those household members should continue to be counted as part of the household in determining unit/subsidy size. BHA has proposed a revision to the language in 10.1.4 that says that if a student is away from the Unit during the school year, s/he will be considered to be a family member, but only if the student is “boarding at a school”. However, there are many other circumstances in which a student may be legitimately temporarily absent but not boarding at school. For example, it may be that the student is staying with other family members/friends, rather than in a college dormitory, but that the student still returns home during school breaks.

BHA’s restriction will unfairly affect those who may not have boarding arrangements with a school, but who have children who are away at school. HUD, in Section 3-23.E.6 of its Multifamily Occupancy Handbook (4350.3, REV-1, pp.

3-65 and 3-66, June 2007), which is often used as a model for both public housing and Section 8 voucher programs, says that the owner must count all anticipated children, including: (a) children expected to be born to a pregnant woman; (b) children in the process of being adopted by an adult family member; (c) children whose custody is being obtained by an adult family member; (4) foster children who will reside in the unit; (5) children who are temporarily in a foster home who will return to the family; and (6) children in joint custody arrangements who are present in the household 50% or more of the time. The Handbook further says the owner should count children who are away at school and who live at home during recesses. If the student has, on the other hand, established a new principal place of residence (such as by executing a lease), the presumption would be that the student is no longer part of the household for the purpose of reserving space or subsidy. BHA should continue to use the phrase “children who are away at school” as the operative phrase, without the modifier as to boarding arrangements, similar to that in the HUD Handbook.

Response: Thank you for your comment. The BHA will review this section and make appropriate revisions.

Comment: Change to Section 8 Moderate Rehabilitation Administrative Plan Permitting Termination for Failure to Enter into or Comply with Repayment Agreement

BHA has had a separate Administrative Plan for its Section 8 Moderate Rehabilitation (Mod Rehab) program. HUD regulations are silent regarding this. Whether or not this is a requirement, and whether or not changes in this Plan need to go through the BHA’s Public Housing Agency (PHA) Plan process, it’s probably for the best that there is a separate Plan to lay out policies that are distinct for this program, to avoid staff confusion, and we are glad that BHA is inclusive in erring on the side of resident/public participation on policy changes.

The proposed change here stems from some individual client cases that GBLS handled this past year, where Section 8 Mod Rehab participants were facing termination for alleged failure to honor repayment agreements for excess subsidy payments that had been made in the past. BHA’s current Mod Rehab Administrative Plan, dating back to 2009, specifically excluded this as a ground for termination. However, beginning in 2010, HUD issued a series of notices on the implementation of its Enterprise Income Verification (EIV) system for a number of PHA-administered programs, including the Section 8 Mod

Rehab program. The HUD notice made clear that Section 8 participants could be required to enter into repayment agreements if excess subsidy had been paid due to resident error in not fully/accurately reporting income, and that residents could be terminated for failure to either enter into or honor such repayment agreements. See PIH Notice 2010-19, as updated by PIH Notices 2011-25 and 2012-26.

While we have no problem with this amendment, as it is consistent with the notices HUD has issued since 2010, it would be helpful to cross-reference the PIH Notices. This is because HUD has established certain requirements for the repayment agreements which may be different than those which BHA initially required for participants, including: (a) that repayment amounts should generally not exceed 10% of adjusted income; and (b) that repayment agreements would be subject to revision if resident income either increased or decreased, so as not to exceed the 10% of income cap. Before BHA proceeds with termination based on prior agreements, it should check to see if the repayment terms would be excessive in comparison with HUD's notices and current resident income, and give the residents an opportunity to enter into revised agreements which match the provisions of the HUD notice.

Response: Thank you for your comment. The Moderate Rehabilitation Administrative Plan contemplates your suggestions as is, as it references the HCVP Administrative Plan for this Section which includes the requirements set forth in the PIH Notice.

Comment: Late Appeals or Failure to Attend or Timely Reschedule Applicant Hearing and Compelling Circumstances to Justify Late Appeal or Rescheduled Hearing

As noted above, in Section 4.1.4.2 of the ACOP (pp. 30-31), in addition to referencing the Grievances and Appeals Department instead of BHA's Office of Civil Rights, there is a new section (b) (and the prior existing language is re-designated as subsection (a)), providing that BHA will uphold the Occupancy Department if an applicant does not attend an informal review and didn't attempt to reschedule it within 24 hours prior to review. BHA will reschedule the informal review when an applicant submits evidence of compelling circumstances that prevented the applicant attending the hearing on the scheduled date.

Occupancy public housing applicant appeals should follow the same framework that is in the Section 8 Administrative Plan for applicant appeals, not merely

for failure to attend (or timely reschedule) the hearing, but also for failure to timely appeal. It has long been BHA practice to allow late appeals for compelling circumstances for both kinds of cases. In Section 4.1.4 of the ACOP, BHA should adopt language to that of Section 6.2.2 of the Administrative Plan: "The BHA will grant a request for a hearing when an applicant submits a late request, but submits evidence of compelling circumstances...that prevented the Applicant from requesting a hearing within twenty calendar days."

There are two further questions here: (a) spelling out what "compelling circumstances" may mean; and (b) giving applicants notice of what is needed. Currently if a late appeal is received, or an applicant doesn't appear at a hearing or doesn't reschedule enough in advance, BHA will automatically send out a notice denying the request because "compelling circumstances" were not shown justifying the late appeal or non-appearance. However, BHA does not tell the applicant of the need to provide evidence of compelling circumstances until after the fact. A better approach would be to inform the applicant that the appeal is late, and/or she defaulted for non-appearance, but that if the applicant will, within a certain period of time, bring in evidence of compelling circumstances as to why the

appeal was late, or why the applicant didn't attend the hearing or call enough in advance to reschedule, BHA will review that and determine whether to lift the default or schedule a late hearing.

On "compelling circumstances", Section 13.6.3 of the Section 8 Administrative Plan has adopted useful criteria as to what may constitute compelling circumstances to permit a late appeal or rescheduling of an informal hearing. Similar language should be incorporated in the ACOP. In both policies, it should be understood that reasonable accommodation may also require relief, even if a case might not otherwise be thought to fit within "compelling circumstances".

Response: Thank you for your comment. We agree that the same standard should be in place for both public housing and Section 8, especially since many applicants appeal denials for both at the same time. However, it would create a significant administrative burden to have to send applicants a letter informing them that "the appeal is late and/or she defaulted for non-appearance, but that if the applicant will, within a certain period of time, bring in evidence of compelling circumstances as to why the appeal was late, or why the applicant didn't attend the hearing or call enough in advance to reschedule, BHA

will review that and determine whether to lift the default or schedule a late hearing." First, in the past two years, DGA has issued over 900 dismissals and defaults per year. To have to first send a letter to all of these clients would further strain DGA's limited resources, potentially slowing down the appeals process for all. Second, notifying all of these clients that they may submit evidence regarding the reason for the untimely request/default and giving a deadline for doing so would in many cases necessitate a second review of reasons the client could not respond/provide sufficient evidence by the given deadline. Third, with regard to defaults, clients are notified in their hearing notice and the FAQs enclosed with all hearing notices of DGA's requirements regarding no show/rescheduling. DGA feels this sufficiently puts clients on notice as to what reasons will be considered sufficient to reschedule, what verification will be required, and when it should or may be submitted.

Comment: Treatment of Transitional Housing Programs

As noted above, BHA has continued to use many of the former federal preference categories for its housing programs, including prioritizing homeless applicants. The definition of "homelessness" has, from the inception of the federal preference system,

included those living in transitional housing. See, for example, 24 C.F.R. § 5.425(a)(2)(ii)(B) (1999), which stated that a homeless family is "any person or family that has a primary nighttime residence that is: (1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing); (2) An institution that provides a temporary residence for individuals intended to be institutionalized; or (3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings."

The term "transitional housing" was not defined further in the federal preference regulations. However, it is defined under the McKinney Act, at 42 U.S.C. § 11384(b); see also 24 C.F.R. § 583.5. There, Congress stated the following:

"[T]he term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary."

HUD has long had a McKinney Transitional Housing program. While the program normally restricts occupancy to a 24-

month period, the regulation states the following: “A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.” 24 C.F.R. § 583.200(j). This shows that HUD required an individualized determination of the family’s circumstances—if, by and large, a program was designed to last no more than a particular time period, but for reasons outside of its control, a family wasn’t yet able to move forward to non-transitional housing, the 2-year time limit would not be applied to deny continued assistance (or continued categorization of the applicant as “homeless”).

Another portion of housing legislation adopted by Congress in the early 1990’s provided that jurisdictions could target part of their HOME funding for tenant-based rental assistance (TBRA). This, on occasion, might be used to assist moving homeless families into apartments with temporary subsidy until their names could be reached on regular public housing and Section 8 waiting lists.

Congress and HUD designed the HOME TBRA program in such a way that the “bridge” subsidy would not affect the applicant’s continued qualification for the initial homeless preference. See 42 U.S.C. § 12742; 24 C.F.R. § 92.209(l) (in any cases where assistance under Section 8 becomes available to a participating jurisdiction, recipients of HOME TBRA will qualify for tenant selection preferences to the same extent as when they first qualified for preference to the HOME TBRA program). Typically, as with the McKinney transitional housing program, HOME TBRA funds were limited to a 24-month term, but could be renewed, subject to the availability of funding. See 42 U.S.C. § 12742; 24 C.F.R. § 92.209(e).

There are a few other transitional housing arrangements found in HUD and/or State regulations which have been vital as part of Boston’s Continuum of Care where it would be important for temporarily sheltered residents to not lose homeless priority. Under the HOPWA program, there may be “community residences”, which are defined to include “transitional residential settings with appropriate services” to enhance the quality of life for persons who are HIV+ or have AIDS. These are designed to provide lower cost residential alternatives to institutional care. See 24 C.F.R. § 574.340.

Similarly, the Department of Mental Health (DMH) has a program of residential care and services for clients which is not considered to be a tenancy or covered by landlord-tenant laws. See 104 C.M.R. 28.00. BHA and DMH have agreed in the past that occupants of this housing can be eligible for (or not lose) homeless priority. For both types of community residences (as with the McKinney transitional program), there is no per se durational limit on occupancy.

For the past few years, BHA has used the same general “homeless” language that was in the old federal preference regulation, i.e., that includes families and individuals living in shelter and “transitional housing”, and has not chosen to restrict this definition further. This allows case-by-case consideration as to whether an applicant should be regarded as residing in shelter or transitional housing. We think this is the approach that BHA should continue to take.

The proposed ACOP and Administrative Plan revisions would revise the Glossary of the ACOP and Administrative Plan to include a definition of “temporary/transitional housing assistance”. This definition would provide that if applicants receive rental assistance “that is an extension of shelter” which (1) is intended to last for 12 months or less and/or (2) does not have self-sufficiency goals as part of its program, such

applicants would be regarded as temporarily/transitionally housed and therefore homeless for purposes of preferences and/or priorities. None of this phrasing, however, is clear and many subjective interpretations are invited by this—nor will it be easy for applicants or BHA staff to track this. Moreover, none of this phrasing comes from the original federal preference scheme/language, nor does it relate back to the “transitional housing” or HOME TBRA bridge subsidy concepts which influenced HUD and the drafters of the McKinney Act.

We would recommend that BHA keep the existing definition of homeless, which has the value of including transitional housing in the manner originally intended by HUD, and discuss this matter further with stakeholders as to whether: (a) there is a need for further clarification that would in fact be helpful and would meet the goals of the City to address homelessness; and (b) is sensitive to the design of many different programs that may be meeting different needs. Moreover, if BHA ultimately determines to narrow the definition, grandfathering in those individuals and programs that were determined eligible previously would make sense, with any restrictions only having prospective impact on new applicants.

Response: Thank you for your comments. The BHA will review

and revise the proposed language. BHA will use HUD’s transitional housing and temporary housing definition.

Comment: Section 8 Tenant-Based Voucher Program— Relationship Between Owner Eviction and BHA Section 8 Termination Process

HUD regulations provide that a housing authority has the discretion to terminate Section 8 assistance if a tenant has committed a serious or repeated lease violation, and must proceed with termination if there is a court-ordered eviction for a serious lease violation. See 24 C.F.R. §§ 982.551(e) and 982.552(b)(2), (c)(1)(i). HUD leaves it up to housing authorities to determine if lease violation is repeated or serious. HUD regulations also require both owners and tenants to give the housing authority copy of any eviction notices. See 24 C.F.R. §§ 982.310(e) and 982.551(g). HUD regulations also permit a housing authority to refuse to issue a voucher for continued assistance elsewhere if there are circumstances of lease noncompliance that could be a basis for termination. See 24 C.F.R. § 982.314(e)(2).

There’s a question how BHA should exercise this authority/duty to monitor lease compliance. On the one hand, a tenant with a repeated pattern of noncompliance may affect an owner’s willingness to participate in the Section 8 program, and a complete

hands-off approach could make it difficult to market the Section 8 program with a few out-of-control tenants simply carrying problematic behaviors from one apartment to another with impunity. In addition, sometimes notices from owners reveal other issues for housing authority concern, like drug-related or violent criminal activity affecting neighbors or long-term presence of unauthorized household members who have not gone through screening and whose income has not been reported to the housing authority. On the other hand, many landlord-tenant disputes can involve petty matters. There may be legitimate disputes by the tenant with the owner about conditions. A tenant’s nonpayment may stem from the housing authority’s failure to adjust the rent, or from an inability, when family size and subsidy changed, to relocate quickly enough to avoid an unaffordable rent. The owner may have multiple reasons for wanting to evict the tenant, some of which aren’t driven by tenant “fault”. Finally, there can be circumstances beyond the tenant’s control (family financial emergencies, or bad conduct by household members that was not known to the tenant), and the tenant may be willing to make the owner whole or enter into terms that should ensure lease compliance in the future at the current address or elsewhere.



It would be helpful to discuss the criteria that BHA uses in deciding whether to proceed with termination when it receives an owner eviction notice alleging “fault” or nonpayment grounds. MBHP, for example, routinely sends its Section 8 participants warning notices when such notices are received, advising them that this may be a basis for termination and that they need to resolve the matter. However, MBHP does not usually issue notices of proposed termination until after the court process is concluded; moreover, it also usually will issue a voucher for the tenant to relocate. There are some virtues to this approach, as it means MBHP is not “taking sides” in the court dispute, or giving any greater weight to the owner’s allegations than to the tenant’s possible defenses. In addition, in many cases where there are mixed motives for eviction, allowing a voucher to issue permits the parties to resolve the matter without rancor, and to move on to find more acceptable landlord-tenant relations. On the other hand, there may be cases where the nature of the allegations are such that BHA believes termination is warranted. It is unclear if there is independent investigation conducted in these cases beforehand, or any referral of Section 8 tenants to appropriate services (such as HomeStart, the RAFT program, or the Tenancy Preservation

Program, as might be used for BHA public housing tenants in similar circumstances).

In addition, early issuance of termination notices in response to owner notices runs the risk that BHA may turn a situation that could have been resolved amicably into a disaster for both the landlord and the tenant. If the tenant fails to respond to the proposed termination letter in a timely manner, BHA will proceed to terminate the subsidy, and this could occur even before the court eviction date. The owner then is left with an unassisted tenant who cannot afford ongoing rent, and the tenant is left with no alternatives.

Another question here would be, what referrals should be available from BHA when Section 8 participants get into trouble? On the public housing side, managers routinely utilize programs like RAFT, Homestart, and the Tenancy Preservation Program (TPP), and Homestart and TPP are present at the Housing Court for tenants who were not aware of these resources earlier. It is not clear, however, that there is anything similar on the Section 8 side. While BHA’s role is more indirect here—it is up to the owner to decide whether to accept assistance from RAFT, or to explore available services through TPP—staff can and should make tenants aware of programs that could help them. Tenants should not feel at a disadvantage in getting referrals

from BHA because they are Section 8 participants, rather than public housing tenants: in both cases evictions place their families and futures at risk.

There are no easy answers here, but a dialogue with Section 8 participants would be beneficial, as well as an exploration of what “best practices” establish the right mix between enforcing program obligations and prevention of unnecessary homelessness and subsidy loss.

Response: Thank for you comment. The BHA Leased Housing Department holds settlement conferences with regard to all Failure to Recertify and Inspection cases. Further, it makes an effort not to act on Owner initiated Notices to Quit, until it can determine whether or not said case has been filed. Furthermore, the Leased Housing Department is available through its Legal Representation to mediate and settle any Proposed Termination case where resolution can be reached short of a hearing. The BHA will continue to refer clients to outside agencies who may be able to better assist them with regard to any eviction matter.

Comment: [Removing Criminal History Questions That May Inadvertently Trip Up Or Delay Applicants.](#)

At present, BHA asks applicants if they have ever been convicted of a crime. This

question often confuses applicants, who may think that if they were not sentenced or incarcerated, there was no conviction. In addition, if the applicant says “yes”, but the charge was later sealed (due to lapse of time) or dismissed after it was continued without a finding, screening staff may become suspicious that they haven’t uncovered everything, and may make the applicant jump through hoops to explain the discrepancy. Many clients may not accurately recall their criminal history (including whether an incident may have occurred while they were a juvenile). We think it would be better to simply remove this question. BHA will run a criminal history check, and it can ascertain from that check whether the applicant has criminal history that would be a concern. Alternatively, BHA should give applicants the option, instead of answering “yes” or “no”, to say, “I don’t know” or “not sure”.

Response: Thank you for your comment. The BHA has not proposed any changes. As you are aware all applicants are provided with the opportunity to mitigate and/or establish a reasonable accommodation for any negative or conflicting information received by the BHA prior to a final eligibility determination.

Comment: Owner Screening for Lower Mills and Heritage PBV

#### Units, and Consequence of Screening Rejection on Ability to Remain on Other Lists

BHA recognizes that the BHA’s level of screening, as the subsidy administrator, for PBV applicants and the screening done by owners in deciding whether to accept the PBV applicant are two separate and distinct processes, and as long as BHA has determined a family eligible, the fact that the owner has rejected the applicant for not meeting additional screening criteria does NOT affect the applicant’s ability to remain on other PBV or Mod Rehab waiting lists. However, at Lower Mills and Heritage, BHA’s hybrid role as subsidy administrator and quasi-owner can cause confusion, particularly since it is BHA’s Occupancy Department that is doing the additional screening and determining suitability. It’s vital here that the same principles are applied, and that a rejection on suitability/additional owner screening grounds at these sites does NOT result in removal from other BHA Section 8 PBV/Mod Rehab waiting lists, and/or that applicants don’t get the wrong impression about their status on those lists because of poorly worded notices. John Coddington reiterated these principles at a recent meeting with housing search advocates, but staff and advocates will need to be vigilant to avoid mistakes.

When this issue was discussed at the public hearing on December 6<sup>th</sup>, Gloria Meneses indicated that applicants can be removed from all PBV lists if they don’t respond to an update request, if they fail to respond to or complete verifications requests for owner screening, and if they fail to accept an offer without good cause. While general withdrawal for failure to respond to a general update or to accept an offer without good cause makes sense, the same is NOT true for owner screening verifications, which can vary from site to site and from provider to provider. As with other owner screening denials, this should only have an impact on that owner’s listed site(s), and not on the applicant’s ability to show fitness to live elsewhere.

Response: Thank you for your comments. The BHA will work internally to improve efficiencies in this regard.

The BHA continues to review these processes to ensure it adds clarity for all involved parties. There are existing and distinct notices for the Section 8 qualification requirements per the Administrative Plan and once the clients successfully completes the Section 8 requirements he or she is referred for the landlord screening process per the Admissions and Continued Occupancy Policy (ACOP). A

fact sheet has been created as well in order to assist clients to better understand both requirements. All clients for any of the Project Based and Moderate Rehabilitation programs are required to successfully complete two distinct screening processes: 1) Section 8 requirements per the BHA's Administrative Plan and 2) Landlord requirements per the Landlord's criteria. For the Lower Mills and Heritage Housing Corporations the requirements are per the Admissions and Continued Occupancy Policy (ACOP). Clients who successfully complete the Section 8 requirements but fail to complete the Landlord's screening process are considered to have rejected an offer and therefore, per the 2011 Administrative Plan are removed from all Project Based and Moderate Rehabilitation waiting lists.

However, if the Applicant successfully completes the Section 8 requirements screening and also completes the Landlord's screening requirements but the Landlord denies the client due to criminal record, housing history, etc., the applicant is removed only from that specific Project-Based or Moderate Rehabilitation waiting lists since the other Landlord requirements may be different.

Comment: Pilot Process for Handling Waiting Lists at Certain PBV Sites

BHA previously sought HUD approval to permit PBV owners to administer the waiting list process, with BHA's function limited to evaluating eligibility. HUD did not approve this, but did permit a pilot under which BHA would collaborate with the PBV owners to streamline the process. At a recent meeting, housing search advocates met with John Coddington to get more information about the pilot. BHA is permitting this at 15 sites—six managed by Pine Street Inn, four by Winn Management, two by Maloney Properties, and one each by Hearth, Caritas Communities, and Peabody Properties. There are written criteria delineating how the management companies coordinate with BHA functions and regularly report back on the status of those on the waiting list. Data is retained so that if there is an error, there will be a paper trail in the BHA system (for example, that a withdrawal notice was sent to an applicant at the wrong address, and BHA had previously gotten written notice of an address change). There is one BHA staff member responsible for tracking screening at these properties. BHA did agree that the descriptions for a number of the PBV/Mod Rehab sites are a little thin (in terms of programs, accessibility, number of units at each address, etc.) and is working on this. The pilot is to

be assessed periodically. BHA should share these results.

Response: Thank you for your comment, however, as this is a Pilot Program, the BHA is unable to provide such information at this time.

Comment: Supportive Housing Set-Asides and Any Different Criteria for Admission: In its FY 2012 proposal, BHA had included a reference to supportive housing at Amory Street in conjunction with 12 units of housing for frail elders, as well as 275 units in public housing for the HomeBase and Healthy Baby initiative. HUD had stated that while it might support these efforts, BHA would need to seek and obtain HUD approval for assigning units in any way different than to normal applicants from its existing waiting list or preference system. These were listed as deficiencies in the submission. Ultimately in its PHA Plan approval letter from August, 2012, HUD noted that it had requested additional information to be reviewed, and that BHA would have to amend its PHA Plan with respect to this review if necessary. Nothing further has been reported to the RAB or as part of this year's PHA Plan submission on this. It would be helpful to know what BHA provided to HUD, what HUD's further response has been, and what amendments (if any) are contemplated.

Response: No Amendment was necessary as the ACOP envisions the existence of supported housing programs. BHA staff are happy to speak further with the RAB on the topic of Supported Housing upon request.

Comment: Taking A Fresh Look at How Reasonable Accommodation Requests Are Handled

The issue of providing reasonable accommodations to persons with disabilities is not unique to Occupancy and Leased Housing; there are many ways in which it arises for Operations as well. Advocates have been kicking around these issues for some time. As with the Grievance Procedure discussion above, there are not easy answers, and there are many considerations about how to do this effectively efficiently, within the limitations of BHA's resources and organizational structure, and in a way that can be readily understood and negotiated by clients with disabilities and those helping them. Often clients may have multiple barriers – they may be persons with disabilities, AND persons with limited English proficiency, and are in the middle of other crises. One size does not fit all, and any system must be staffed by people with compassion and common sense. While verifications and forms may help to insure that BHA understands an applicant's or a

resident's situation and elements of a reasonable accommodation plan, and that there is a paper trail, they are not a substitute for a truly interactive problem-solving process. Obviously there are many logistical problems: staff have limited time and other appointments, and applicants/tenants may be difficult to contact and/or may not present what's needed in a clear or coherent way. A lot of frustration is, by the nature of the beast, built in, as well as the need for patience, an open mind, and creativity.

Comments on Reasonable Accommodation (RA), Good Cause, and Mitigating Circumstance Determinations is a "work in progress" by advocates to try to start a dialogue with BHA regarding both general principles and how some specific issues could be handled. It has not been fully vetted with the advocacy community, but given the opportunity presented by the PHA Plan, we think it would be helpful to share this with BHA to get a discussion going about how the shared objectives of best serving individuals and families with disabilities can be accomplished.

Conclusion

Thank you for the opportunity to submit these comments, and please contact me if there are any questions regarding the same.

Response: Thank you for your comment. The BHA follows all regulations and requirements with regard to Reasonable Accommodation, including engaging in the interactive process. As always the BHA will strive to improve service to our clients.

Administration:

Comment: S p. 22, 4.A: Re: The organization chart: Is Alexandra Rizvi the same person as Alexandra Flamme?

Response: Yes. Alexandra Flamme Rizvi.

Comment: (Also Budget) PR Fiscal Systems (p. 8): People noted the discontinuance of the policy of accepting rent in the office as causing hardship. In addition, if you have your rent sent to BHA by your bank, this doesn't get tracked the same way (BHA apparently processes the rent statements first with the bar codes), and so even if payments are on time, people are getting late rent notices and called in or being issued habitual late payment notices, even though the payments are on time. This also sparked the discussion about why can't BHA set up the system for electronic fund transfers directly with banks, in a way similar to what's done for utilities, insurance, etc. Mostly a public housing issue, but could occasionally affect Section 8

tenants (for example, those with repayment arrangements).

Response: Tenants are strongly encouraged to make payments by mail to the BHA's lock box however the BHA continues to accept rent payments at its main Chauncy St offices. Rent payments were moved from the 7th floor at 52 Chauncy St. to the 1st floor at 56 Chauncy St.

Online bank payments sent by the bank directly to the BHA are processed in a timely manner and should not generate late notices. Payments received without the BHA-supplied coupon at the PO Box will cause a delay. Relevant information on avoiding delays is included on tenant rent statement: "If you are not paying with the supplied coupon below please submit to BHA, 52 Chauncey Street - Tenant Accts, Boston, MA 02111."

Thus, tenants need to be sure that online bank payments are sent to 52 Chauncy Street and not to the PO Box.

The BHA is not ready to accept electronic fund transfers at this time.

Comment: These comments are submitted by Greater Boston Legal Services on the Public Housing Agency (PHA) Plan for the Boston Housing Authority (BHA) for Fiscal Year 2013, and include comments on the Annual Plan, the Progress Report (tracking progress on

the prior 5-Year Plan), the Capital Plan and the Performance and Evaluation Reports on past year's capital items funded under the Capital Fund, the Capital Fund Financing (bond) Program (CFFP), and the Capital Fund Recovery (stimulus) Grants (CFRG). The comments also address proposed changes to the BHA's Admissions and Continued Occupancy Policy (ACOP) for its public housing program and BHA's Administrative Plan for its Section 8 program, as well as draft video surveillance and community space policies. These comments are being shared with the BHA's Resident Advisory Board (RAB); GBLS has benefited from RAB members' feedback in developing these comments.

## I. MAJOR OVERALL THEMES

### A. Governance

BHA and the City of Boston moved forward this year with a revised home rule proposal for BHA governance. The revision would cure two problems: (a) it would ensure that the Monitoring Committee does not discontinue in its operations at the end of each City Council term; and (b) it would guarantee that at least one BHA Section 8 participant is a member of the Monitoring Committee. As of the submission of these comments,

however, the Legislature has not enacted this legislation. If it is not adopted by the end of the legislative year, a home rule bill will need to be resubmitted. In the meantime, no Monitoring Committee members have been appointed this year and the Committee has not met at all. This is not acceptable, and it is incumbent upon the Mayor and the Administrator to remedy this, particularly if any new proposals for public housing redevelopment (such as the Choice Neighborhoods proposal for Whittier Street) are to go forward .

The Governor's Public Housing Commission has determined that governance changes may be needed with many Massachusetts housing authorities to insure that they are politically accountable and can effectively deliver service in a time of scarce resources. Boston's governance structure was designed to guarantee that the City of Boston remains responsible for the success of BHA's public housing and rental assistance program. The capable leadership the Mayor has brought to the BHA at its helm and throughout the senior echelons of the BHA has benefited residents and the public at larger. However, it is critical that public housing residents and Section 8 participants remain the "eyes and ears" of the program, and carry out the critical oversight

roles granted to them in the Monitoring Committee process.

It also remains critical for there to be good communication among Monitoring Committee members, RAB members, and local tenant organizations (LTOs) for those in public and “mixed finance” housing and with BHA-administered Section 8 subsidies. As is provided for in the BHA’s Tenant Participation Policy (TPP), LTOs and the RAB should be informed of the names and contact information for the Monitoring Committee, should be furnished with notice of when the Committee will meet, and periodically be provided with copies of its minutes. Similarly, Monitoring Committee members should get contact information for the RAB and LTO-elected Board members, regular meeting times, and (to the extent they exist) minutes in case they, too, would like to know what is happening or wish to attend other resident meetings. To the extent that the Monitoring Committee issues a report to the Mayor—as is called for in the governance legislation—this too should be shared with the RAB and LTOs.

Response: In the previous legislative session, the BHA submitted a revised home rule proposal for BHA governance through the Mayor’s Office. Unfortunately, despite strong efforts to move the legislation

through, it did not pass before year’s end. Therefore, the legislation needs to be refiled and readopted by the Boston City Council. BHA is in conversation with the city’s IGR team and the legislation is expected to be refiled in the near future.

In addition, BHA is making every effort to prepare a list of names for nomination to the Monitoring Committee. The names and contact information for Monitoring Committee members, as well as meeting dates, times, locations are public information as well as are publicly posted for any interested party and certainly can be shared with other BHA resident organizations such as the RAB and LTO members. Minutes can be shared as well. In addition, BHA is happy to share with the Monitoring Committee members similar information regarding LTO and RAB activities assuming it is provided to the appropriate BHA staff.

Comment: PR p. 23: Staff BHA should change the reference here to the “relatively secure federal funding stream”, since that is NOT so currently and is likely to be come even less so given federal fiscal debates—as was discussed by Administrator Bill McGonagle in his remarks to the RAB in October, 2012. There are likely to be challenges ahead in the next few years.

Response: BHA will stay with the word “relatively” though the point is well taken.

Comment: (Also Finance) S Audit: The audit is referenced on p. 41, and BHA provided a copy of it to GBLS in response to our inquiry. As noted above, there were a few adverse findings in the audit:

For both 2010 and 2011, BHA did not meet minimum performance goals for the Section 3 program, which are that 30% of the aggregate number of new hires shall be Section 3 residents, 10% of the total dollar amounts of all covered construction contracts shall be awarded to Section 3 business concerns, and 3% of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns. Management did not have procedures in place allowing them to identify qualified Section 3 businesses. Moreover, BHA staff did not correctly report on Section 3 performance and this error was not caught by BHA supervisors.

BHA switched to new financial accounting software in 2010, but opening balances between the end of year statement for March 31, 2010 and April 1, 2010 did not match. Journal entries were entered into the ledger without appropriate supervisory review, both within

and outside the accounting department. Accounts payable software inappropriately recorded payables due to system errors. Back-up data to support entries was not always adequate.

These are significant findings. It appears that BHA has taken appropriate corrective action, including the adoption of a new Section 3 policy and a concentrated focus on auditing and compliance, as well as the addition of new staff to ensure adequate supervisory review. It would be helpful, however, for the BHA to promptly report to the RAB on any adverse audit findings, and the steps that are being taken, so that information about deficiencies and reforms are brought to residents' attention immediately.

Response: As an initial matter, the Office of Civil Rights responds to GBLS PHA Plan comments, re Section 3 audit findings, contained on page 4 of their December 8, 2012 letter. The Section 3 program requires that recipients of HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contract opportunities for low- and very-low income residents in connection with projects and activities in their neighborhoods. In 2011, BHA achieved the primary Section 3 goal of directing at least 30% of new hiring opportunities to Section 3 residents. In fact,

BHA exceeded the goal with 37% of new hiring opportunities (472 of 1274) going to Section 3 residents.

While BHA did not reach the numeric safe harbor on the secondary Section 3 goal of Section 3 business concern contracting, it distinguished itself as one of the regional leaders in promoting Section 3 business opportunities. In early 2011, BHA established procedures for conducting outreach to and certifying Section 3 business concerns. It is worth noting that BHA's efforts in this area preceded HUD's pilot Section 3 business registry in five selected cities. In its response to the 2011 Section 3 audit finding, BHA noted that it has "conducted extensive outreach to local businesses, and met with officials from state and local government offices, as well as presented at local contracting associations. As a result of these efforts, BHA established a Section 3 Business Concerns Database that presently contains twelve self-certified businesses." BHA has continued its recruitment efforts and presently has 36 self-certified Section 3 businesses in its database. BHA requires businesses to submit an application form with additional backup verifications, which are contingent on the type of Section 3 business self-certification sought. By comparison, HUD's online Section 3 business registry,

which requires nothing more than that companies enter very basic information about their business without providing *any* backup documentation, as of a recent search has generated 45 Section 3 businesses in Washington, DC, 45 in Los Angeles, CA, and 49 in New Orleans, LA. There is no publicly available information as to whether any of these businesses have been awarded contracts by the local housing authorities. The HUD Boston Regional Office has praised BHA's achievement in building a Section 3 business database and stated it was not aware of any other housing authorities in the area that had a Section 3 business database. BHA has also promoted its Section 3 business database to other local housing authorities, including Cambridge, Medford, Brookline, and Worcester. BHA recently received notification from the Medford Housing Authority that it had just awarded a contract to an architectural design firm from the BHA Section 3 business database.

What the past adverse audit findings failed to take into account is the fact that the Section 3 goals are to be achieved "to the greatest extent feasible" *and* to be implemented *consistent with* federal, state and local law. Massachusetts has a rigorous procurement framework that compels the BHA to award all but its smallest dollar value

construction contracts to the lowest responsive, responsible bidder and its services contracts to the highest-ranked proposer. In other words, BHA in most instances does not have any latitude to give preferential treatment to Section 3 business in awarding contracts. Despite these barriers, of the 13 federally funded construction contracts projected for award by BHA in 2012, BHA has achieved 12% Section 3 business concern subcontracting (\$1,709,012 of \$13,928,217 projected for award).

As noted in the comment, other achievements in 2012 include BHA adopting its agency-wide Section 3 Policy in May after extensive public comment and review. Additionally, a number of BHA residents and other Section 3 residents from the Building Pathways Pre-Apprentice Program received placement at and employment through local trade unions. One successful BHA graduate of the Building Pathways program, currently employed as an insulator-apprentice, was the keynote speaker at a November 3, 2012 Section 3 training that BHA conducted in conjunction with the Boston Resident Training Institute. BHA was also invited by HUD to present its Section 3 accomplishments at a regional Section 3 training in Cumberland, Rhode Island in September 2012. BHA was also selected by NAHRO to present on Section 3 at a national

conference held in Nashville, Tennessee in October 2012. Finally, the BHA publicly procured a software program to monitor Section 3 on federal construction contracts based on weekly payroll submissions. The software contract was awarded at the end of 2012 and the software program should be operational within 2-3 months.

BHA's Section 3 program was audited for the April 2011-March 2012 period and there was no adverse audit finding.

The most recent financial audit is available for review in the Planning Library. There were no findings for the year ending March 31, 2012.

### **Budget:**

Comment: S p. 14, 2: The chart on financial resources includes a line for Project-Based Section 8. Is this PBV, and is it a subset of 1.e, or is it something else (is it Mod Rehab? Mod Rehab plus other project-based non-PBV assistance?) It would also be helpful to get a breakout on the "other income" category, i.e., how much is vending, how much laundry, how much cell towers? This is relevant because of revenue-sharing arrangements with a number of LTOs on laundry funds (and at some sites, vending machines).

Response: The project based section 8 line on the chart is project based mod rehab. PBVs are funded in line 1e. Laundry/Vending \$240,000 all from laundry machines; Cell Phone \$230,000; Insurance Proceeds \$165,000; Legal/Constable Fees \$105,000; FEMA Reimbursement \$60,000

Comment: S p. 41, 11: It would be helpful to review the most recent audit and findings.

Response: The most recent financial audit is available for review in the Planning Library. There were no findings for the year ending March 31, 2012.

### **Capital:**

Comment: PR p. 11: It would be helpful to get information on which specific developments had stimulus fund (ARRA) boiler work done (says here 3 family and 2 elderly/disabled developments), and which sites (4 family and 22 elderly/disabled) had the video surveillance systems installed, as well as which specific sites (4 family indicated) had the lead paint abatement work done.

Response: This information can also be found in the CFRG Performance & Evaluation report. The boiler replacement sites were Charlestown, Lenox, Cathedral, Bellflower and



Peabody. The sites receiving the video surveillance system were Cathedral, Whittier, Alice Taylor, Commonwealth Family, Holgate, Foley, Washington Street, Martin Luther King, Eva White, Walnut Park, Amory, Torre Unidad, Rockland, Codman, St. Botolph, Pasciucco, Ausonia, Hassan, Patricia White, Roslyn, Bellflower, Commonwealth Elderly, Peabody, Hampton House, Frederick Douglas, and Washington Manor. The main sites for lead abatement were Bromley Heath, Alice Taylor, Charlestown and Cathedral; we were also able to do a smaller amount of LBP work at West Newton, Mary Ellen McCormack and Whittier Street.

Comment: PR pp. 11-12: Does the change from LEED Gold to LEED Silver (a lower performance standard) have any impact on the amount of planning energy savings to be achieved long-term? It would help to get information on this, as reduction in long-term operating expenses for utilities is a major aspect of the Approach to Preservation, and if lesser savings would be realized, this would be a cost factor to be built into future budgets.

Response: Both projects have in fact attained Gold LEED certification w/ Cathedral just missing Platinum. BHA's initial threshold for performance, as it related to BHA's response to

the competitive ARRA grants that funded portions of both projects, anticipated the City of Boston's adoption of the Massachusetts Green Communities building Stretch Code requirements. Meeting the requirements of the Stretch Code effectively equated to incorporating a scope of work that would result in the project attaining a LEED Silver certification. Purely from an energy perspective both projects exceeded the MA stretch code requirements by approximately 15 to 20% which equates to approximately a performance level 35 to 40% better than required by the base MA building code.

#### Comment: COMMENTS/ QUESTIONS ON THE CAPITAL PLAN AND THE PERFORMANCE AND EVALUATION REPORTS

As I have done in the past number of years, I prepared summaries which compared the proposed Annual Statement of proposed Capital Fund expenditures with what was recommended for FY 2013 last year, and the same thing for the next three years (FY 2014-2016). I also prepared a summary which combined all of the Performance & Evaluation (P&E) Reports from all funding sources (Capital Funds FY 2008 through FY 2012, various Stimulus Grants, and the Capital Fund Financing Program (CFFP, or Bond)), by

site, and compared them with last year's report. The main point in doing the comparison would be to identify where either work items or funds didn't match the last report. Key points here:

1/ Green Physical Needs Assessment: The Annual Plan refers to Green Physical Needs Assessment (PNA). As was noted by the RAB Reading Committee members at the last RAB meeting, it's not clear what that is. Shirley Ransom explained that HUD has a new system of accounting for the remaining life of subcomponents of different systems, and BHA will need to enter data on this throughout its system. It should be noted that at a number of sites (particularly in the elderly/disabled portfolio), this is the only work item listed for FY 2013. While it's understandable that BHA should site-base pro-rata the costs of data entry, everyone needs to understand that this, by itself, does not translate into any work at any site—although it should improve capital planning for all sites for the future.

Response: The commenter is correct; the Green Physical Needs Assessment (GPNA) is only an assessment tool, or inventory, of existing conditions and energy usage. It does not provide any additional funding. What it will hopefully do is help with strategic capital planning and energy improvements to

make the best use of existing funding. The first step is identifying, measuring and calculating all of the components and conditions at every site and populating the HUD database with this BHA-specific information.

Comment: 2/ Description of Work Activity: As has been the case for many years, the use of certain broad descriptive titles in Capital Plan documents means that it is difficult to know exactly what was done, whether it should “solve” a problem (or was only a partial tackling of a problem at a few buildings), and whether the item was properly prioritized. Phrases like “site work”, “security”, “unit construction”, “building envelope”, and the like can be used for many purposes. While occasionally BHA has, in extra notes on the Capital Plan documents, provided the level of detail needed, this is the exception not the rule. We understand that this is a product of the HUD forms/accounting categories as well as space limitations, but there should then be supplemental material available so that residents at each site, as well as the RAB, can evaluate the work.

Response: It is a goal of the Capital Construction Department to develop an intelligible annual record of past, current and future planned capital projects per development that would be of

more use and interest to residents, development managers and others alike. Staff availability and improvements in BHA’s IT systems will be critical to this effort. The capital documents included in the Annual Plan are required forms mandated by HUD presumably for HUD purposes; they are not very “reader-friendly” to the general public.

Comment: 3/ CFFP Repayment: A number of years back BHA made the decision to seek a major infusion of capital funds through a bond, with the principal and interest to be paid back over 20 years with the stream of future Capital Funding. The decision was prudent at the time—it the work were deferred, the amount of work and the cost would only escalate—and this was done in an era where no one could anticipate the availability of later stimulus funds for major work. However, the CFFP has long-term consequences on the availability of Capital Funds for other work at the BHA, since a large portion of each year’s Capital Fund allocation must be set aside for debt repayment. In addition, reductions in federal appropriations for the Capital Fund strain BHA’s capacity even further. HUD has noted, in proposed revisions to the Capital Fund rule and in the RAD demonstration, that PHAs must evaluate the balance between the need to meet

urgent ongoing capital needs throughout their portfolio and their bond payment obligations. This is particularly true as mixed finance redevelopment reduces the stream of future Capital Funds. This is an area in which BHA and the City of Boston must remain vigilant.

Response: BHA staff agree with the comment.

Comment: 4/ Discrepancies in Accounting: Particularly for FY 2009, FY 2010, and the CFFP items, there are numerous changes between the Performance and Evaluation Reports that were provided to the RAB last year and those provided this year. Ordinarily an item that was in the “revised” budget in last year’s statement should be the “original” budget for this year’s statement. However, in many instances, the two items are different—this explains the over 300 footnotes on the report for family public housing and the over 500 footnotes for elderly/disabled public housing. In order for the system to be transparent, there must be no gaps—the RAB and the public must be able to pick up from what they saw last year and then see what changes BHA is making in this year’s report.

Response: Unless there is a major interim budget revision to HUD, the “Revised” column for last year’s P&E report should be the Original (or Approved)

column for this year's P&E report of the same grant. BHA made a clerical error in not updating this year's Original/Approved column on some reports. There is no change to the work items or budgets reported this year or last year for these grants. The only error was in what was reported as the "starting point" for these grants this year. This is why there was a "gap" in some cases in the reports available for the review and comment period. These reports have been corrected for the final submission to HUD in January.

Comment: 5/ Reprogramming: A comparison of last year's reports and this year's, for both planned future spending and spending authorized in prior years, reveals a great deal of reprogramming. It's understandable that there is significant reprogramming: BHA must obligate and spend its funds within HUD deadlines, and reprogramming provides it flexibility when work is delayed or can be expedited, or when there are cost overruns or an item can be completed under budget. Some of the reprogramming is just a shift of authority-wide categories to project-based budgeting, or the assignment of contingency funding to particular needs. On the other hand, when brand new items appear late in the process and/or items are deleted, it's unclear how this

complied with the original priority setting process, or if deleted needs are later met.

In some cases, a review of past and future reprogramming may simply show a shift in the year when work was done. For example, over \$1.4 million was added to dwelling construction at Bromley-Heath in FY 2009-2010, and thus the \$1 million reduction in FY 2013-2016 funding is less of a concern. At Mary Ellen McCormack, \$2.5 million was added to bathroom work and \$1.1 million to roof work in FY 2008-2011; for 2013-2016, on the other hand, \$1.2 million will be reduced (with the deletion of work on stairs). It's not clear if this was also true for Hassan: there is an additional \$2.5 million set aside in FY 2011 funding for building exterior work, and \$812,500 is reduced in funding for FY 2013-2016 in the same category. Other sites, however, show a net loss, such as West Newton (elimination of basement, stair, and electrical work) and Franklin Field (elimination of electrical work).

BHA has projected removing \$3.4 million in funding for FY 2013-2016 for Whittier Street. This makes sense if comprehensive redevelopment will be sought under the Choice Neighborhoods program. However, funding reports make it appear that BHA is adding expenditures from past years for this site; BHA staff has

indicated this is a mistake that will be corrected.

Response: The commenter is correct that there are many valid reasons for reprogramming capital funds. BHA staff will consult with the commenter regarding the Whittier Street as it is not clear what is contemplated to be corrected.

Comment: 6/ Whether Funds Are Spent Equitably and Based on Proper Prioritization: As one of the RAB members noted in this year's discussions, if the Capital Funds were simply allocated on a per unit basis, the amount of work that could be done would be very limited. BHA therefore has to decide how funds can best be prioritized to meet the greatest needs—and it must have a system which shows this and is transparent and defensible. While health/safety priorities are used as the ranking factors for the Annual Plan, as noted above, there is much reprogramming that occurs and there is no process to review systematically with residents why this has been done, and to reassure them that their developments' needs will be addressed in some reasonable fashion given overall resources limitations. BHA advised the RAB that it has established internal guidelines to allocate funds fairly to both its family and elderly/disabled portfolio.

However, residents may have understandable concerns where developments of similar size, age, and apparent quality are treated differently. For example, five elderly/disabled sites: Foley (\$960,000), Pasciucco (\$900,000), St. Botolph (\$810,000), Patricia White (\$720,000), and Frederick Douglas (\$597,000) have over a half a million dollars each set aside for future capital work, but six elderly/disabled sites (Martin Luther King, Walnut Park, Ausonia, Holgate, Codman, and Amory Street) have less than \$5,000 each. There may be good explanations for this based on past spending and the useful life of building components (or, as mentioned with Whittier Street above, potential alternative funding strategies), but there is no way for residents to evaluate this. Perhaps HUD's new PNAs will provide the sort of information that will allow residents to track real needs and get some reassurance that the tough judgment calls are justified.

Response: The five elderly sites mentioned above that are scheduled for large capital outlays have been deemed highest priority for building envelope renovations by both capital and operations staff. Maintaining an intact building envelope helps to preserve all other building systems as well as keep units dry. As stated previously, it is a goal of the

Capital Construction Department to develop an annual report of past, current and future planned capital projects per development that would be of more use and interest to residents, development managers and the general public.

**Civil Rights:**

Comment: Reasonable Accommodation Procedures: HomeStart (comment seconded by St. Francis House) has engaged with the BHA in discussion on how the reasonable accommodation procedure works in admissions. HomeStart asks the following to further clarify the process for both applicants and advocates:

a. Currently applicants do not receive an approval notice for their reasonable accommodation request, they only receive a notice if it is denied (from time to time applicants receive an approval notice, for example, if they are approved for a modified unit, but not for all reasonable accommodation requests made). HomeStart asks that the BHA consider producing approval notices for all approved reasonable accommodations so that both applicants and advocates understand where the request stands.

b. Currently it is unclear what the procedure is when a reasonable accommodation for an admissions case is introduced in the appeals process. HomeStart believes the process to be that the reasonable accommodation is remanded back to the appropriate admissions department to make a decision, but the process is not clear. HomeStart is asking that the BHA puts in both its Section 8 Admin. Plan and ACOP the clear process that happens with a reasonable accommodation request when it is introduced in the appeals process.

c. The checks and balances of the reasonable accommodation procedures in the admissions department are often unclear. HomeStart asks that the following be written into the BHA's Admin Plan and ACOP to assist applicants and advocates to figure out where they are in the process:

- i. Name of position of departmental point person to submit the reasonable accommodation request to.
- ii. Timeframe that the applicant should expect to receive a written decision (approval or denial) of the reasonable accommodation request.
- iii. If the reasonable accommodation is not decided upon within the specified timeframe, who is the next

contact to inquire to (the supervisor? The Reasonable Accommodation Coordinator?)

iv. Process of remanding reasonable accommodations to different departments, if applicable.

Response: The BHA is currently in the process of reviewing and revising its two reasonable accommodation policies. This year it will make available for public comment a unified policy that covers the review of reasonable accommodation requests for new Applicants, public housing Tenants, and Leased Housing Participants as well as their rights. While there are many goals for this revision, the primary goal is perhaps to produce a document that is clearer and more accessible to Clients and their advocates than the dual documents that are currently in use. New procedures will be issued following the promulgation of the policy. These, like the new policy, will take into any new developments in reasonable accommodation law that have arisen since the creation of the current BHA policy/procedure manuals, and will try to best address the many new types of requests the BHA has received since then.

If an Applicant, Tenant, Participant, or advocate has concerns about inconsistencies

in the way that reasonable accommodation requests are handled, or concerns about policy compliance, they may contact the Office of Civil Rights' Reasonable Accommodation Coordinator for an investigation pursuant to Sections 12.4 of the Reasonable Accommodation in Housing Policy & Procedures ("RAHP") or Section 11.4 of the Leased Housing Division Reasonable Accommodations in Rental Assistance Policies and Procedures ("RARAPP"). Both of these policies are available online at [www.bostonhousing.org](http://www.bostonhousing.org) on the Office of Civil Rights' reasonable accommodation webpage.

The BHA staff who make decisions on reasonable accommodation requests for Applicants and public housing Residents, as well as their responsibilities, can be found in Sections 5 (requests by Applicants), 8 (general requests by Residents), 9 (requests Residents who have violated their leases and/or are facing eviction), and 10 (requests by Residents for transfers) of the RAHP. The staff who make decisions on reasonable accommodation requests for Leased Housing Participants can be found in Sections 6 (general requests by Participants), 8 (requests by Participants for reconsideration of appealed RA denials), and

10 (requests by Participants found to be in violation of their particular Leased Housing program) of the RARAPP.

The criteria used to make decisions on reasonable accommodations as well as the BHA's policies regarding communications between the BHA and those requesting reasonable accommodations may also be found in the RAHP and RARAPP. Approvals of reasonable accommodations are to be put in writing, pursuant to Section 5.4 of the RAHP and Section 6.4 of the RARAPP.

The BHA will take your suggestions into consideration to determine the best place to display the chain of command for each department related to the staff that review and make decisions regarding the various reasonable accommodation requests. For the Occupancy Department the supervisors, Assistant Director and Director review and make the final determinations for all applications processed in this department. The Occupancy Department staff engages in the interactive process with the clients, health care providers, other professionals depending on the type of requested accommodation, as well as other BHA staff as needed in order to make a final determination on a case by case basis. The public housing Transfer Review

Committee, consisting of a designated staff from the Operations, Legal, Occupancy, and Office of Civil Rights departments review each reasonable accommodation transfer request and engages in the interactive process with various health care and other professionals as well as other BHA staff personnel as needed to make a final determination regarding the requested accommodation. The Reasonable Accommodation Coordinator, Douglas Wilcox, works closely with the Transfer Review Committee and the Occupancy staff assisting with the interactive process as needed on a case by case basis. The Occupancy department and the Transfer Review Committee do issue approvals and denials for all received reasonable accommodation request.

For non-transfer related reasonable accommodation requests from public housing residents, the site manager may be the initial contact. In addition, the resident may make the request to the Reasonable Accommodation Coordinator in the Office of Civil Rights.

Comment: PR Language Access (pp. \*): Good work being done here (Vivian Lee's presentation to REC, but vital documents that could affect residents (notices related to eviction, termination, denial of transfer, etc.) not translated and

they should be. In addition, still some instances where people get notices telling them to bring own translator/interpreter (as opposed to telling them where to call to get services). In addition, both in English & in other languages, people are not getting sufficient notice of important things that affect them (for example, parking lot work.

Response: Thank you for your comment. BHA has reminded departments to affix the latest Language Advisory on all the correspondences being issued to BHA applicants and residents/tenants. The latest Language Advisory informs clients how to contact BHA for interpretation service. BHA will also make sure that all the computer-generated forms and notices will include the proper Language Advisory for their BHA clients, and will continue to provide proactively, Spanish and Chinese written translations for vital documents that are applicable to general applicant and resident/tenant populations.

Comment: I want to make sure the microphone is working. Good morning, everybody. I'm from the [elderly community] in Dorchester Center. I moved there in 2008. My first place in housing was [Woodbole Ave.]. I spent I believe 19 years there. Since I came to the [inaudible], when I had [community], I believe that everyone should be [covered], wherever they come

from, whatever [it is] you are. Everybody should be together. I used to work as a [inaudible]. I was [inaudible]. The first school I've been [inaudible phrase] in Dorchester. I served four years there. I worked with kindergarten kids, second graders, third graders, fourth graders and even fifth graders [I've mentored]. My first time I went to a community center in Dorchester and I came down to the community room to see what's [inaudible]. Then these people look at me like, "You are out of place," the way they look at me.

Then there [inaudible] who asked me if I can get some coffee. I said yes, I can get some. I took a small cup of coffee. I could not drink it. [I set it and then I] [inaudible]. The second time again, [inaudible] to the community room. These people, I don't know understand why people should put people down like that because [they know]. As I spoke to my son this morning, we Haitian people, we [are identical]. Wherever we go, they know that we are Haitian because we walk differently. We are have an accent. But the accent should not make people put people down. I can say that. I'm from the parents that believe in education. I'm from Haiti. Even though as I said before maybe [inaudible]. That's not true. It's a political situation, a political problem. [It's not].

Then when I've had [inaudible] meeting, if I try to speak to clarify something or to ask questions, everybody gets mad at me. In the office, if I have something [inaudible] and then to [comment] about [what happened]. I have to call Boston Housing especially, some of the problems that can be solved from the office. But these people, that believe that they're [better] than this one, and when I realized that I just don't go to the meeting anymore for the [inaudible]. That can go everywhere on my floor. Then they send the notices. They never show up. I told them that's discrimination and they say no. It is discrimination. Discrimination is where people come from. I don't think there is a teacher – I was in Chicago and when the program [was saying] [inaudible] black in the United States. I think everybody could have some experience about that.

I don't know [inaudible phrase] or where you're from. Everybody in America is from somewhere. Even though you have your kids, you [as] kids, you're from somewhere. That's [got my nerves]. These people who put down other people, they are kids of immigrants. I don't understand. No one can discuss that, can say, "No, we could not do it that way," either people from [inaudible]. They never said anything about it. I feel really sorry for myself to be that way.

Also, I raised my children in public housing. Public housing did not raise my children. I raised my children according to their [inaudible] from Haiti to respect everybody. Then they have a good education, not because my kids were raised in public housing that they should be a delinquent. Not really, because I'm from Haiti and I'm from a family and parents that [inaudible]. Also, I have my education from [inaudible]. I have [principles] to follow and I pass them to my children. I don't understand why people try to [diss] where people come from.

Yes. I feel great because I speak here [do more good].

Response: The Office of Civil Rights encourages all residents who believe that they may have been subject to unlawful discriminatory treatment on the basis of race, ethnicity, national origin, sex, gender identity, sexual orientation, religion, disability, genetic information, family status, or status as a veteran of the armed services, to make a formal complaint. Residents may file complaints by contacting either the management office of the development in which they live or by contacting OCR directly at (617) 988-4383 to schedule an appointment. Further information about unlawful discrimination, including the BHA's Civil Rights Protection

Plan and the BHA's Civil Rights Guide, is available on the BHA's website at <http://www.bostonhousing.org/deptinfo11.html>. Residents may also obtain further information from development managers or from OCR directly. Residents requiring language services to access these materials should contact the Office of Civil Rights Language Access Coordinator at (617) 988-4315.

Comment: Boston Housing Authority Reasonable Accommodation (RA), Good Cause, and Mitigating Circumstance Determinations FY 2013 PHA Plan comments, GBLS (12-13-12)

Boston Housing Authority (BHA) has had good policies for Reasonable Accommodation (RA) in its Public Housing and Leased Housing programs since 2000. However, there are questions about how best to implement these policies. In addition, guidance from HUD and court decisions have made clear that these policies should be applied flexibly to best serve persons with disabilities, that particular words or forms need not be used as long as it is clear that a request for some kind of relief is being made, and generally it is "never too late" to make a request.

In addition to formal RA requests related to disability, there are two similar concepts

that often enter into BHA decision-making: whether an applicant or tenant has shown “good cause” for the BHA to depart from certain rules, and whether there are mitigating or extenuating circumstances that, on balance, might warrant admission or continued assistance despite grounds for denial or termination. Good cause and mitigating circumstances may arise in disability-related cases, but they may also arise in other cases. Since these concepts often come up in a similar context to RA, they are discussed here as well. However, since they do not involve formal obligations that the BHA has under civil rights law to accommodate persons with disabilities, they must be distinguished from BHA’s RA duties.

The purpose of this advocacy piece is to lay out both some general principles as well as some specific problems where we think attention and change is needed.

### Background

Prior to 2000, BHA did not have any formal reasonable accommodation policies or procedures. Around 2000, in response to the Jane Doe litigation involving the U.S. Department of Justice (DOJ), and with the assistance of Deborah Piltch, formerly of the Disability Law Center (DLC), BHA implemented a

Reasonable Accommodation Policy for its Public Housing programs. In 2001, a similar policy was implemented for the BHA’s Leased Housing programs.

At the time the RA policies were promulgated, BHA appointed Jill Zellmer as RA coordinator in its Office of Civil Rights (OCR). Under the original design, that coordinator was charged with ensuring that action taken by different BHA departments was consistent with the policy and applicable law. Persons with disabilities and their advocates who believed that their requests were not being properly handled could seek assistance from the coordinator who acted as a trouble-shooter and ombudsperson within the overall organization.

While there is still a RA coordinator in OCR, much of the day-to-day RA functions have devolved back to BHA departments. There is concern that, as a result, RA decisions may not be handled in a consistent manner across the BHA, and that the policy and the law are not being followed. In BHA v. Bridgewaters, for example, the Supreme Judicial Court found that BHA acted improperly in not considering whether a reasonable accommodation should be granted in the eviction process for a tenant who committed an assault at a time when he was off his medications. Some have

suggested that a return to centralized RA decision-making by qualified staff is needed. As established, staff are being asked to sit in judgment on themselves as to whether they have taken appropriate action. The whole idea of a RA/Section 504 coordinator is to have a separate set of trained eyes looking at these issues. Understandably there are many complexities to different BHA programs, and line staff with knowledge about program rules and about the particular applicant/tenant must be involved. This is worth further discussion.

Response: Jill Zellmer’s last day of employment at the BHA was 11/26/2006. Well over six (6) years ago. The Department of Grievance & Appeals separated from the Office of Civil of Rights in November 2006. Well over six (6) years ago.<sup>1</sup> Section 12.3 of the RAHP (promulgated in 2000) clearly states: “The Reasonable Accommodation Coordinator shall be available to BHA applicants and residents as well as staff to answer questions and to deal with issues regarding reasonable accommodation requests, although he or she is not the decision maker on a reasonable accommodation request.” If an Applicant, Tenant, Participant,

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<sup>1</sup> GBLS’s Grievance Issues at the Boston Housing Authority page 7 inaccurately states that the Grievance and Appeals Department was separated from OCR about two years ago.



or advocate has concerns about inconsistencies in the way that reasonable accommodation requests are handled, or concerns about policy compliance, they may contact the Office of Civil Rights' Reasonable Accommodation Coordinator in writing for an investigation pursuant to Sections 12.4 of the RAHP or Section 11.4 of the RARAPP (promulgated in 2001). Both of these policies are available online at [www.bostonhousing.org](http://www.bostonhousing.org) on the Office of Civil Rights' reasonable accommodation webpage.

Comment: General Principles:

1, Reasonable accommodation (RA) should not be a paper-driven process. It is unlawful to deny or refuse to accept a request for failure to have submitted a particular document or form. Instead, it is an interactive process. As much as possible, BHA should engage with applicants/tenants (and those family members or advocates who are working with them) in an interactive process, identifying what is being sought and what kind of information is needed for BHA to properly evaluate the request.

Response: This is the current practice. Please see the RAHP and/or the RARAPP. The BHA as stated has had a reasonable accommodation

process in place since before its 2000 formal policy. The BHA designated staff have been provided with on-going reasonable accommodation training to ensure that the accommodations are reviewed, not merely a paper review, but clients are given a fair consideration on a case by case basis. The BHA engages in a detailed interactive process. The Reasonable Accommodation Coordinator provides support and assistance with various interactive processes to ensure the BHA has taken into consideration as many possible alternatives prior to issuing a final determination. The BHA has been and will continue to be committed to provide the best possible services to our disabled and non-disabled families. For the Occupancy Department the supervisors, Assistant Director and Director review and make the final determinations for all applications processed in this department. The Occupancy Department staff engages in the interactive process with the clients, health care providers, other professionals depending on the type of requested accommodation, as well as other BHA staff as needed in order to make a final determination on a case by case basis. The public housing Transfer Review Committee, consisting of a designated staff from the Operations, Legal, Occupancy, and Office of Civil Rights departments review each reasonable accommodation

transfer request and engages in the interactive process with various health care and other professionals as well as other BHA staff personnel as needed to make a final determination regarding the requested accommodation. The Reasonable Accommodation Coordinator, Douglas Wilcox, works closely with the Transfer Review Committee and the Occupancy staff assisting with the interactive process as needed on a case by case basis.

Comment: 2. While medical providers may be able to get BHA needed information in support of an RA request, providers are often busy and have other priorities. In addition, there may be other sources of supporting information where there is no likely provider who will respond to a release form. For example, there may have been a disability determination for benefits that shows that the applicant has cognitive limitations and is unlikely to respond to written communications without involvement of third parties. Disclosure, however, should be limited to what is needed to identify that there is a disability-related need for accommodation.

Response: This is the current practice. Please see the RAHP and/or the RARAPP. Thank you for your comment. In accordance to the law, the BHA

only seeks necessary information to determine what type of accommodation is need to meet the applicants/ or residents/ or participants needs. The BHA will continue to engage in the interactive process with clients requesting reasonable accommodations

Comment: 3. When BHA needs additional information, it should relay this both in writing—so that it is clear what is needed—and in other ways that will promote understanding by the applicant/tenant (including, where authorized, communication with third parties). Any deadlines for submission of information should be included, and there should be flexibility in extending deadlines. If the applicant/tenant has been unable to obtain what's been requested by a deadline, BHA should also be flexible in considering whether enough information or documentation may have been submitted to act on the request, or to consider alternative verifications.

Response: Please see the RAHP and/or the RARAPP. Thank you for your comments. The BHA's Reasonable Accommodation policy and all written correspondence do indicate what documentation is required, the deadlines, and clients are given the opportunity for additional time to submit any documentation to be considered prior to making a final

determination. We work closely with many advocacy agencies and provide detailed information regarding all BHA policies to ensure that they too are able to better serve our mutual clients. The BHA will continue to engage in the interactive process with clients requesting reasonable accommodations.

Comment: 4. Any denial of a reasonable accommodation request should be in writing, should be clear about what information was considered and why the BHA ruled negatively, and should include notice of review rights and any deadlines for requesting review. Where an applicant or tenant is unable to read due to a visual impairment, developmental disability, or literacy, the BHA should use best efforts to communicate its written decision verbally as well as in writing, specifically where there is no advocate and/or third party assisting the person seeking the accommodation. In addition, in any adverse action taken by the BHA against an applicant or tenant (for example, removal from a waiting list, determination that the applicant doesn't meet suitability standards, denial of transfer, eviction, termination of subsidy), the written notice should advise the applicant/tenant of the right to request reasonable accommodation both as to the substance of the decision and

as to the process to be used for review.

Response: Please see the RAHP and/or the RARAPP. The BHA documents include this information and clients are informed verbally as well. Other alternative communication is made upon requests.

Comment: RA Issue Raised After a Notice of Adverse Action

5. If an applicant or tenant, as part of the appeal request or a reasonable amount of time prior to the hearing, raises a RA issue (on matters other than how the hearing should be conducted or whether there is good cause for a late appeal or removal of default), this should be submitted to the appropriate BHA Department for action (for example, by the property manager in the case of eviction, by Occupancy in the case of initial eligibility, or by Leased Housing in case it's a Section 8/MRVP issue). In many cases, it may be possible to resolve the issues and avoid a hearing. While use of an interactive process may occasion some delay, cases should not be unreasonably delayed. If the matter is resolved, there should be a written notice explaining why and the hearing shall be canceled. If the BHA Department concludes, notwithstanding the request, that the RA request must be denied, there should be written

notice regarding the information considered and the reason for the denial, and the notice should make clear that the denial of the RA request is part of what's considered at the hearing.

Response: The BHA's current practice has been that once a hearing is requested, any RA request should be submitted only to DGA. This streamlines the process by ensuring that: if remand is necessary, it goes to the appropriate department for review; there will not be duplicative review; and hearings are not scheduled, if at all, until after the RA review is completed.

Comment: 6. If the applicant or tenant raises the RA issue initially at a BHA administrative hearing, it shall be up to the hearing officer to determine if the appropriate BHA Department should first consider the matter, or if s/he will consider the request. (In some cases where the parties are represented, they may agree as to how this should be done, and the hearing officer should follow this recommendation.) Both parties must be informed, at the hearing (and shortly thereafter in writing) as to how the RA issue will be handled. If the matter is to be considered by a BHA Department other than the Division of Grievances and Appeals (DGA), no DGA decision shall be issued

pending that Department's review, and a reasonable time limit shall be established for the BHA Department's action. The steps in #5 above shall be followed. Should the Department's ultimate decision be adverse, a second DGA hearing shall be convened automatically, solely to focus on the RA issues, and the hearing officer will then render a decision based on the issues considered and evidence asserted at both hearings.

Response: This is exactly the process currently in place for remands.

Comment: 7. If the RA issue concerns the failure to submit a hearing request in a timely manner, or a request to vacate a default for failure to attend a hearing, such a request shall be considered solely by DGA. Alternatively, the affected BHA Department may indicate to DGA that it has no objection to the scheduling of a hearing, or to holding a new hearing despite the lack of timeliness or default, and DGA will then proceed to schedule a hearing.

Response: This is the current process.

Comment: Specific Issues

8. (Changes in Development Choice That May Be Warranted After Screening Appointment Notice Sent): BHA applicants are generally barred from

changing any development choices after being issued a notice to contact the BHA for a final screening interview. However, BHA will consider RA or good cause requests where it can be shown that a particular placement will cause substantial hardship and that there was some changed circumstance or information that the applicant was not aware of by the deadline for making development choice changes. The applicant must notify the BHA of this new information within a reasonable period after getting a development offer. The notice usually lists one or more developments where the applicant has reached the top of the list. The applicant/transferee could be given the option at that point to identify any developments that may not be suitable because of barriers, access to medical care, domestic violence, hate crime or stalking issues, or the like, since this may have changed since screening or the last update. BHA would then evaluate if there is either a RA or good cause reason to reject the offer applying the above standard; if there is, the development choice will be removed, and the applicant will be eligible for other offers. If there is not good cause or RA, the applicant must accept a development choice at that development or be removed from all development waiting lists.

Response: Thank you for your comment. There are no proposed changes to this BHA policy. However, be advised that the BHA's current policy already provides the clients with the opportunity to establish good cause/mitigating circumstances/ and/or reasonable accommodations and they are reviewed on a case by case basis.

Comment: 9. (Late Requests for Appointments/Appeals or Requests to Vacate Withdrawal/ Default): Applicants and tenants who do not request an appointment or hearings within the time period set in BHA notices may either show that a late request is justified for RA reasons, or that there may be other "compelling circumstances" that would justify the failure to make a timely response or appeal. Similar factors may apply if the applicant/tenant is withdrawn or defaults by not appearing at an appointment or hearing). However, BHA doesn't give written notice of the need to present "compelling circumstances", and may summarily deny late-received requests. In any case where a request hasn't been received by the deadline, but a subsequent request is received, BHA should give written notice to the applicant/tenant of the need to get in evidence of compelling circumstances, with a reasonable deadline, and explain what would be

considered "compelling circumstances". Similarly, if there is a withdrawal or a default, the notice of withdrawal or default should explain the right of the applicant/tenant to present RA or compelling circumstance factors allowing a new hearing or reinstatement to the process. In all of these circumstances, tenants/applicants must also be notified of their right to request RA as to their failure to meet a deadline.

Response: As noted above, it would create a significant administrative burden to have to send applicants a letter informing them that "the appeal is late and/or she defaulted for non-appearance, but that if the applicant will, within a certain period of time, bring in evidence of compelling circumstances as to why the appeal was late, or why the applicant didn't attend the hearing or call enough in advance to reschedule, BHA will review that and determine whether to lift the default or schedule a late hearing." First, in the past two years, DGA has issued over 900 dismissals and defaults per year. To have to first send a letter to all of these clients would further strain DGA's limited resources, potentially slowing down the appeals process for all. Second, notifying all of these clients that they may submit evidence regarding the reason for the untimely request/default and giving a deadline for doing so

would in many cases necessitate a second review of reasons the client could not respond/provide sufficient evidence by the given deadline. Third, with regard to defaults, clients are notified in their hearing notice and the FAQs enclosed with all hearing notices of DGA's requirements regarding no show/ rescheduling. DGA feels this sufficiently puts clients on notice as to what reasons will be considered sufficient to reschedule, what verification will be required, and when it should or may be submitted. DGA notifies clients of their right to request RA in all dismissals and defaults.

Comment: 10. (Time to Request Relief): While reasonable deadlines for applicant/tenant action are proper, HUD has made clear that reinstatement is an appropriate reasonable accommodation remedy where the reason for non-response was related to a disability, and has not set an outside time limit for this. It would be helpful to discuss this issue further. For example, if an applicant was removed from the waiting list two years ago, and can show she was hospitalized and unable to respond, should she be restored to the original placement on the list? What if, after a Section 8 participant loses a hearing, but within the next few months her medical provider gets BHA information which, had it been considered

at the hearing, might have justified RA? This also relates to exercise of discretion: for example, BHA's Section 8 Administrative Plan provides that even if a hearing officer upholds a termination, BHA retains the authority to decide not to proceed with termination, and there is no outside limit to how BHA exercises this discretion.

Response: Thank you for your comments. The time for a client to submit an RA request after an adverse decision is currently contemplated in RA policy. The client can submit such a request within thirty (30) days of the adverse decision. These are reviewed on a case-by-case basis.

Comment: 11. (Public Housing Court Evictions and RA—Forum): If a BHA public housing eviction is in court when the RA issue is first raised, the parties could jointly recommend that the matter be remanded to the BHA to consider the RA, or could ask the Court to act on it; at times this may involve use of the Tenancy Preservation Program to see if other resources/programs may help address all parties' concerns. BHA shall, however, engage in an interactive process regarding any RA request received (either administratively or in the court process). In addition, in an administrative case which is otherwise within the Court's

jurisdiction (say a timely appealed denial of Section 8 admission), while the Court is generally limited to review of the evidence considered by BHA, the Court is free to remand the case to the BHA for the taking of additional evidence where it feels this is warranted.

Response: Given the great variation in these cases the BHA generally handles them on a case-by-case basis but as a general matter works to ensure that tenants or participants engage in the interactive process without unduly delaying resolution of the underlying case.

Comment: 12. (Rent Burden and RA, Section 8): In any denial of approval of a Section 8 tenancy due to excessive rent burden (participant would have to pay more than 40% of income for rent and tenant-paid utilities), as well as in cases where the initial tenant share is over 30% of income or the owner has requested a rent increase which would require the tenant to pay more than 30% of income if accepted, BHA shall communicate in writing and by other appropriate means the tenant's right to request a higher payment standard as a reasonable accommodation for a person with a disability. If such a request is made, BHA shall not make a final determination on the tenant rent share or the

approval of the tenancy until it is determined if a higher payment standard is appropriate.

Response: Thank you for your comment.

Comment: 13. (Bedroom Size Issues and RA or Related Needs): In deciding what bedroom size apartment is appropriate for a family (either for Leased Housing subsidy standards, or for public housing transfers), there may be circumstances where RA or other medical or social factors would justify having a larger bedroom size. For example, medically required equipment may take up space, or it may not be medically recommended for family members to share a bedroom, or the presence of a full or part-time PCA or other person providing services necessary for the activities of daily living may justify larger space. BHA will communicate in writing and by other appropriate means about the right to seek this relief.

Response: Thank you for your comment. The BHA reviews all requested accommodations which may include a larger unit. These types of requests are very common to applicants and to the BHA.

Comment: 14 (Disability Preference): If an applicant did not originally claim the disability preference on his/her

application due to disability, but has had a qualified disability as of the date of application, once this is documented, it should be possible to grant the disability preference back to the date of applicant. If, on the other hand, the applicant was not disabled at the time of initial application, but can document that during the period of the application, s/he obtained that status (but due to disability did not assert it), the preference could be granted back to the date of qualification.

Response: Thank you for your comment. The BHA does review on a case by case basis this type of considerations. When documented and warranted the BHA does honor the original application date.

Comment: PR pp. 4-7: While there has been great work expanding Language Access for applicants and tenants/participants, there is still a gap in that the key day-to-day “vital documents” that applicants/tenants receive for “adverse action” (i.e., when an application is withdrawn or rejected, transfer denied, or eviction or termination process begins) are not translated for persons of Limited English Proficiency (LEP). These adverse action notices are individualized and describe why the individual/family is being denied assistance, or what the family did or did not do that justifies the adverse action.

Families often cannot understand what the BHA has done, or why, without translation of these documents. We understand there are resources limitations here, but it may simply mean that BHA should hold off on issuing such adverse action notices until the needed translation can be done. If MBHP can do this for its sizeable Section 8 program, BHA should be able to do it for its programs.

Response: Thank you for your comment. Since the implementation of the Limited English Proficiency (LEP) policy in April 2010, BHA has committed to providing interpretation services to all its LEP clients in any language upon request. BHA continues to provide proactively, Spanish and Chinese written translations for vital documents that are applicable to general applicant and resident/tenant populations.

Currently, a Limited English Proficient applicant or resident/tenant may contact the department or the management’s office respectively to provide a verbal interpretation of the BHA notice he or she received. BHA will provide the interpretation in the language requested, either over the phone or in person. BHA believes that this interactive approach of communicating through an interpreter, what our LEP clients did or did not do (that resulted in the adverse

action taken or to be taken against them) or what they should do (to mitigate and resolve a situation), is a more effective way to address their language needs. Because verbal interpretation is interactive, it provides an opportunity for both the client and BHA to clarify meaning immediately, quickly, and directly. Furthermore, verbal interpretation (sometimes referred as sight translation) is less time consuming and more readily available (due to a greater availability of interpreters than translators) than individualized written translation.

Because written translation also requires an advanced command of writing skills and a precision in the use of target language, translating decision notices for complex grievances would take days if not weeks, and can delay the notification process which may in turn adversely affect the client. In the past year, the Language Access Division provided interpretation assistance to the Department of Grievance and Appeals on 228 occasions, and out of those occasions, 168 were in Spanish and 18 in Chinese. If BHA were to translate the hearing decisions for that department alone, it would require substantially more budgetary and linguistic resources. If BHA were to provide individualized written translations for applicants and

residents/tenants across all its departments, such practice would post an unrealistic challenge to this agency.

Even if BHA managed to provide individualized written translations in two of its most commonly used languages (Spanish and Chinese) other than English, such provision would leave out 28 of the 30 languages represented in the BHA LEP population. Clients who are speakers of other languages (Vietnamese, Haitian Creole, Cape Verdean, Somali, Arabic languages of different countries) will still have to rely upon verbal interpretation for their individualized documents, due to the limited availability of translators in the communities.

With language resources already stretched tightly in many of our immigrant and linguistic communities and a limited BHA budget, individualized written translation is not a language access solution which BHA, despite our strong partnerships with our communities, can or would implement at this point in time.

### **Communications:**

Comment: There has been a lot of discussion about getting the website revised. When will this happen? Is there a timeline and can BHA be held to it?

Can I pay BHA on line? Will this capacity exist with the new website? I can do this for other types of bills--why can't I do it with my BHA rent?

Response: The Boston Housing Authority will implement its new website in 2013. The redesign will focus on providing up-to-date information to our various customer groups – applicants, residents, landlords, advocates, etc. – in a clear, straightforward manner.

The BHA has heard from some residents that they would like some method of paying BHA online or electronically. We are exploring this possibility at this time.

Comment: PR Website (pp. 3 & 8): Need to set timeline for getting the revised website up and running. MBHP's website works well, talks about workshops that could be beneficial to residents/participants.

Response: The BHA is actively working to implement the new website up and running as quickly as possible. Our timeline depends on other computer programming being completed within the Elite system as well as collecting and editing the information that will be posted for our constituents.

### **Community Services:**

Comment: PR Resident Empowerment Initiatives (pp. \*): Good progress here. Edna Rivera Carrasco has been doing a great job. Goal on interviewing and hiring resident corps members seems on target, and residents have really been putting in the time. Still have gaps on links between RAB, Resident Empowerment Coalition (REC), Local Tenant Organizations (LTOs), Monitoring Committee (not in operation at moment), and in getting the Section 8 Tenants, Inc. (S8TI) initiatives off the ground.

Response: We will continue to work together to identify those gaps linking the different resident groups. If you have specifics, please provide them so that we can follow up.

Comment: Resident Participation

We again commend BHA for its expansive initiatives in this area in conjunction with the Resident Empowerment Coalition (REC), of which GBLS is a member. The hiring of Edna Rivera-Carrasco as the coordinator for this work, the successful completion of RAB elections with broad participation, a focus on the completion of local tenant organization (LTO) elections, the establishment of a Memorandum of Agreement

(MOA) for Tenant Participation at mixed-finance sites, and the first work by the city-wide Section 8 organization, Section 8 Tenants, Inc. (S8TI), were all important work done this year, and we look forward to further fruitful collaborations in 2013. This includes completion of the website update and the “Navigating the BHA” process so that information can be spread in simple and understandable form to applicants and program participants about how BHA programs work and how common problems can be resolved.

Response: We will continue to work together on the new website and the Navigating the BHA Process.

Comment: PR pp. 1-3: This contains a good discussion of BHA’s Resident Empowerment Coalition (REC) initiative. BHA will need to evaluate, over next year, the results of this work, including getting more LTOs recognized and functioning, getting the Mixed Finance developments fully engaged with resident participation, hiring and utilizing the Resident Corps, doing further S8TI trainings, and completing the work on the “Navigating the BHA” materials/trainings.

Response: We agree that evaluating these new elements of resident participation will be

vital and look forward to working jointly on this.

Comment: (Also Civil Rights) PR pp. 19-22: Resident Services and Self-Sufficiency: BHA is to be commended for the focus it’s given to resident services, employment/training programs, access to higher education opportunities for public housing and Section 8 families, etc., as discussed here. Hopefully past problems with Section 3 performance (see discussion of Audit in Annual Plan) are now being addressed.

Response: Thank you.

### **Grievance:**

Comment: p. 28, 5.A: The Mixed Finance sites often have their own unique Grievance Procedures. It would be helpful to have these centrally compiled, as well as information about where each can be obtained. In addition, for mixed finance sites, it is important to have a system where tenants/advocates can quickly ascertain whether they are covered by the grievance procedures or not (for example, whether their particular unit is a public housing ACC unit or not). Note that for the PBV conversions at Lower Mills and Heritage, BHA agreed to extend informal hearing rights through

the Section 8 program to evictions (i.e., prior to filing of court actions).

Response: Thank you for your comments. The BHA will work to make such information more accessible for clients and advocates.

Comment: S p. 28, comments Mac did on the grievance procedures varying among all the mixed finance sites. Question was raised about why everyone can't just use the same standard BHA grievance procedure--would make things easier.

Response: Thank you for your comments. The BHA has extended the Public Housing Grievance Procedures to tenants who were part of the conversion at the Heritage and Lower Mills sites, due to their prior status as Public Housing Tenants. The same grievance procedures will not be offered to new tenants at these new PBV sites, as these procedures are not part of the Section 8 grievance procedure.

Comment: Grievance Issues at the Boston Housing Authority—PHA Plan submission, Mac McCreight, Dec. 2012

### I. Issues and Guiding Principles

A few issues have surfaced this year on BHA’s system of informal hearings and grievances and whether



revisions are needed. These have focused on two areas:

Mixed Finance Developments: Tenants who live in BHA's mixed finance developments, such as those who have gone through HOPE VI, but who still receive public housing operating subsidy are supposed to still get public housing grievance rights to dispute a number of things, including most evictions, rent setting, transfers, or issues of family composition. However, it's often difficult for tenants (and advocacy organizations working with them, like GBLS, Homestart, and Harvard Law School's Tenant Advocacy Project (TAP), which often represents tenants in BHA administrative hearings) to know if they are in the units with operating subsidy. Secondly, many of the HOPE VI developments have their own unique grievance procedures which differ substantially from BHA's procedures. Third, there's a question, when units are converted from public housing to other kinds of subsidy (like the Section 8 Project-Based Voucher (PBV) units at Lower Mills and Heritage), whether tenants should still keep some of their public housing grievance rights; at Lower Mills and Heritage, BHA has agreed that its usual public housing grievance procedure will be available for evictions before court evictions are pursued.

Response: No response necessary.

Comment: Differences in Procedures for Public Housing Tenants and Section 8 Participants: Section 8 participants (with the unique exception mentioned above for evictions for Lower Mills and Heritage PBV participants) do not use the same procedures as public housing tenants for their informal hearings. There is no private conference opportunity (BHA can offer a private conference, but it is unusual). In public housing, grievance hearings for tenants are heard before a 5-member panel, made up of three tenants and two BHA employees (all panel members are to recuse themselves from cases involving their developments or where they know the parties). In Section 8, informal hearings are held before hearing officers who are BHA employees (the hearing officers work for the Grievances and Appeals Department, and did not participate in the matter being disputed nor are they subordinates of the person who made or approved the decision).

It would make sense, over the next year, to evaluate these processes and determine if there are changes that should be made that would improve the process and would be beneficial to both BHA and its residents. Three principles, I believe, should guide this discussion:

Preserving All the Aspects of a Fair Process: For both public housing tenants and Section 8 participants, grievances and informal hearings often have three aspects: (a) Can an underlying problem be solved?; (b) If you can't solve the problem, who's entitled to what relief (based on the evidence, law, policies, lease, etc.)?; and (c) Are there mitigating factors that should affect the outcome?

Quality of Hearing Result, Impact on What Happens Next, and Length of Time Before Decision Rendered: The process should also be evaluated by the quality of the hearing result, and its impact on what occurs next. For example, in a Section 8 termination case, if the hearing officer upholds proposed termination, the participant can only change this if she can convince BHA to act otherwise, or if she files a timely court action and convinces the judge that there should be a different result. In those cases, the judge doesn't take new evidence, but just looks at what the BHA did—but the judge may overturn BHA's decision if she thinks BHA's decision wasn't clear, or didn't properly evaluate the evidence or the legal standards. In a public housing eviction case, though, if the hearing panel decides that BHA should proceed with a court case, normally the judge will consider any evidence in the eviction trial, and it doesn't matter how the hearing panel treated this evidence. For

hearing panels, usually the panel confers immediately after the hearing is over, decides what it thinks is appropriate, and writes up a short decision on a 2-page form, since the panel is only meeting on that day. For hearing officers, on the other hand, the parties may ask that the record be held open to submit additional documents or memos, and it may be a number of months before a decision is issued. In eviction or termination cases, delay may be an advantage to the tenant and a disadvantage to the BHA; in cases where the tenant is seeking a transfer, rent adjustment, or issuance of a voucher to relocate, delay may work against the tenant.

Treating Tenants/Participants in a Similar Fashion: Section 8 participants legitimately may be concerned if they think they are getting less rights than public housing tenants. Similarly, those in mixed finance developments may be concerned if their grievance procedure appears less even-handed than that which was available to them when they were in public housing. To properly evaluate this, however, it's also necessary to look at the factors above.

Response: Thank you for your comments. The BHA Leased Housing Department is not contemplating changes to its Grievance Procedure at this time.

Comment: Evolution of Grievance Procedures and Informal Hearings at BHA A. State and Federal Requirements  
Public housing grievance rights developed in the late 1960's under both federal and state law. State law guarantees public housing tenants grievance rights for disputes that they have with their housing authorities. State law, however, always had an exception for non-payment evictions, which were not grievable. Starting around 1980, certain other types of evictions involving violent or drug-related criminal activity on or near public housing by a tenant or household member were also excluded from the grievance process. See G.L. c. 121B, § 32. The regulations of the Department of Housing and Community Development (DHCD) authorized grievances to be heard by either a hearing panel or a hearing officer based on agreement between the housing authority and resident organizations. In addition, if a party disagreed with the hearing decision, review could be sought by the housing authority's Board of Commissioners. In 1996, DHCD did away with appeals to housing authority Boards of Commissioners in eviction cases. The regulations also provided for an informal settlement conference where the parties would try to resolve the grievance, followed by the

grievance hearing if matters could not be settled. See 760 CMR § 6.08.

Federal public housing grievance rights were initially issued by HUD notices and handbooks, and were finally formalized by a HUD regulation in 1975. See 24 C.F.R. Part 966, Subpart B. As with DHCD's regulations, they provided for both an informal settlement conference and a grievance hearing if matters couldn't be resolved. Here, too, residents were to be consulted about the manner for handling grievances (by a hearing officer or panel). As with state law, certain types of evictions involving drug-related or violent criminal activity can be excluded from the grievance procedures. Nonpayment evictions are grievable under federal regulations, but the PHA can required that rent be escrowed so that arrearages do not grow during the hearing process. There is no provision for review of a hearing decision by the Board of Commissioners, but the regulations do provide that a housing authority is not required to adhere to a hearing decision if it was contrary to law or beyond the jurisdiction of the hearing officer/panel.

While state regulations did provide for review, through the grievance procedure, for housing authority decisions involving state rental assistance (such as the Mass. Rental Voucher Program (MRVP) and the Alternative Housing

Voucher Program (AHVP), HUD did not have clear regulations on how housing authority Section 8 decisions were to be reviewed until 1984. See what is now 24 C.F.R. § 982.555. These regulations include certain aspects of the public housing regulations, but also differ in some key respects: There is no provision for an informal conference/settlement phase; The only matters which can be grieved have to do with how income, family composition, and rent are determined, as well as denial or termination of assistance due to action or inaction by the family; There is no provision for hearing panels, nor for any role for residents or a resident organization in how hearings officers are selected. As with federal public housing, there was no provision for a further appeal to the Board of Commissioners, but a hearing decision could be overridden if the housing authority considered it to be contrary to law or beyond the hearing officer's jurisdiction.

In 1998, when Congress adopted the Quality Housing and Work Responsibility Act (QHWRA), and the Public Housing Agency (PHA) Plan process, it included grievance procedures as one of the mandatory elements of the PHA Plan. See 42 U.S.C. § 1437c-1(d)(6). HUD clarified that the PHA Plan must discuss Section 8 informal hearing procedures

as well as the applicant appeals process under this. See 24 C.F.R. § 903.7(f).

#### B. BHA History

##### (1) Grievance Procedure

In the 1970's, after federal and state regulators issued grievance regulations, BHA negotiated with what was then its city-wide tenant organization, Tenants Policy Council Inc. (TPC), on a standard lease, grievance procedure, and resident handbook. The grievance procedure was a consolidated one, meant to comply with both state and federal requirements, and which could be utilized by all state and federal public housing tenants. This provided for a 5-member grievance panel made up of 3 BHA tenants and 2 BHA staff members; TPC would assist in the selection of resident members. During the 1980's, Thelma Peters was the BHA staff member responsible for scheduling grievance hearings; this function was subsequently taken on by Joanna Caban, and now by Keyla Morillo. The tenant members of the hearing panel are compensated for their time by a per diem.

One aspect of BHA's procedure that is unique, and is not required by HUD/DHCD regulations, but is consistent with them, is how public housing evictions are handled. Under DHCD and HUD regulations, a tenant could request an informal settlement meeting, and then a grievance

hearing if informal settlement doesn't work. BHA, however, automatically schedules private conferences in all eviction cases, and if the informal conference doesn't result in settlement, issues a notice to quit which includes grievance rights (in all cases except those where there are no grievance rights because of drug-related or violent criminal activity). I believe more tenants get grievance rights this way since it doesn't depend on the tenant taking the first step to preserve the grievance right.

In 1980, BHA was placed in court-ordered receivership, and since that time, BHA has not had a Board of Commissioners. See Perez v. Boston Hous. Auth., 379 Mass. 703 (1980). BHA remained in receivership until 1989 when the State Legislature abolished BHA's Board of Commissioners and set up the current structure, with the BHA Administrator being accountable to the Mayor of the City of Boston and a tenant-majority Monitoring Committee having certain limited responsibilities. See St. 1989, c. 88. With that change, BHA established a system where appeals from the grievance panel would go, not to the Board of Commissioners, but to the Administrator or his designee. BHA's grievance procedure does not place a limit on the grounds for the tenant's appeal, but requires BHA to show error of law.

In 1989, BHA had to make a change in its grievance procedure due to a change in federal law. However, since TPC no longer existed as a city-wide tenants organization, and there was no other city-wide organization, BHA could only give notice and an opportunity for comment to individual tenants. In addition, BHA needed to add new members to its grievance panel since a number of members who had been designated by TPC had moved on. BHA therefore set up the system that it currently uses—i.e., asking individual tenants by notice if they have an interest in serving on the Grievance Panel, and requiring interested tenants to participate in training. These tenants are not selected by a larger resident organization, nor are they accountable to one. This method was approved by the majority of tenants who responded to BHA's notice in 1989.

#### (2) Section 8 Informal Hearings

BHA's Section 8 informal hearing process pretty much followed the HUD regulations, with a slightly bizarre twist. For a significant period of time, the hearing officers for these cases were the attorneys in the BHA's Legal Department—other than the attorney assigned to handle Leased Housing matters. While this helped to ensure that the decisions followed legal standards, it raised issues about impartiality. Moreover, if

these cases were challenged in court, there might be a requirement for BHA to secure outside counsel in order to defend its action.

Around the time that BHA began to have a few persons designated as hearing officers (see discussion below), BHA shifted the duty to hold Section 8 informal hearings to these hearing officers. Initially these hearing officers were in BHA's Office of Civil Rights (OCR). However, BHA reorganized and established a separate Grievances and Appeals Department about two years ago to absorb this role, as well as the role of coordinating the Grievance Panel hearings.

BHA Leased Housing has long recognized that even if a hearing officer may uphold a proposed termination, it may choose not to proceed with termination. This is in addition to those cases under 24 C.F.R. § 982.555 where BHA could override the hearing decision because there was legal error. There is language addressing this in the BHA's Section 8 Administrative Plan. GBLS and other advocates sometimes refer to this as "reconsideration" although there is nothing formal providing for this in HUD regulations. However, as with other legal challenges to an agency's action, there is a deadline to seek court review, and a request that the BHA exercise its discretion not to terminate a participant doesn't

"stop the clock" on the need to seek court review.

Much of the law on Section 8 terminations has evolved in the last few years in the courts. In Wojcik v. Lynn Hous. Auth., 66 Mass. App. Ct. 103 (2006), the court found that a housing authority could not simply override a hearing officer's decision not to proceed with termination where there were mitigating factors. In Carter v. Lynn Hous. Auth., 450 Mass. 626 (2008), the Court found that the hearing officer's decision must examine the factual circumstances of the case and that the hearing officer was aware that s/he had discretion not to terminate assistance if mitigating circumstances so warranted. In Costa v. Fall River Hous. Auth., 453 Mass. 614 (2009), the court noted that certain hearsay evidence could be used by hearing officers (like police reports based on officers' direct observations), but that other hearsay (like a newspaper article), could not be, that due process was violated if a member of the hearing panel had previously participated in ruling on the case, and that the hearing decision must be clear enough to show that what evidence was relied upon and that proper legal standards were applied.

#### (3) Applicant Appeals

Much of the BHA's process for handling appeals by hearing officers developed in the applicant area. In the mid-

1990's, there was an enormous backlog of applicant appeals for both public housing and Section 8 applicants, and it was taking over a year for cases to be heard and decisions issued. This violated DHCD time standards, as well as due process requirements, and GBLS brought a class action against BHA for this (Dessources v. Cortiella). As a result, BHA was required to set up a system where applicant cases would be heard and decided within certain time frames. Guidelines were also established for the appeals which were subsequently carried over to Section 8 participant cases—including the idea of holding the record open for a period of time for post-hearing submissions (with written notice saying what the record was held open for and for what period). BHA had to hire a number of hearing officers to comply with the court action and to meet time standards. These hearing officers were by and large either attorneys or legal interns. As noted above, the pool of hearing officers subsequently assumed responsibility for adjudicating Section 8 informal hearings and grievance appeals.

Throughout the history of the BHA's applicant review system, there have been waves of action that prompt numerous appeals and subsequent delays. This happens most frequently when there may be

mass mailings such as update/purge notices where non-response results in removal from a waiting list, and there are subsequent appeals by those claiming that they should not have been removed. It is always important for Leased Housing and Occupancy to develop methods of addressing these waves creatively so as not to overwhelm the capacity of the appeals process; this can include taking certain types of cases and resolving them administratively without the need for a hearing (such as by reinstating those who indicate continued interest within certain time frames, or who can establish alternative verifications that are sufficient to show eligibility, etc.)

#### (4) Alternative Approaches at Mixed Finance Sites

Starting in the 1990's, BHA began to redevelop public housing through the HOPE VI and other types of financing. This often involved bringing in private developer partners and changes in the formal ownership of the property in order to take advantage of the Low-Income Housing Tax Credit (LIHTC) program. Most of the units redeveloped at these sites remained public housing and were therefore still subject to public housing rules, including grievance procedures. However, the owners were free to come up with their own alternative procedures. This might provide, for example, that

the grievance hearing would be held before a hearing officer who was simply a member of senior management for the private partner not involved in day-to-day matters at that site, or that the tenant could only request a grievance hearing if she first asked for a private conference in writing, it didn't work out, and then made a second written request for a hearing. While there might be a role for residents on a panel, often this might only be on appeals, and it is NOT clear that resident organizations and the private partners in fact ever established these appeal committees (modeled on the 3-person panel in DHCD's regulations). Moreover, there is no good system to insure that one can easily identify which units at these sites are public housing, and that residents are informed of their grievance rights. These grievance procedures are not centrally compiled or readily available to residents or advocates, unlike the BHA's Grievance Procedure, which is always available on the BHA's website.

BHA has agreed, at the Lower Mills and Heritage sites (where 90% of the public housing units were converted to Section 8 PBV) that it would still make the public housing grievance procedure available to residents for evictions in the same manner that it did for public housing. However, other issues for such residents are handled through the normal

Section 8 informal hearing process (such as rent adjustments or proposed termination of assistance). Moreover, Section 8 PBV residents at other BHA sites that were formerly all public housing, like Franklin Hill, Washington-Beech, and Old Colony, are not guaranteed such rights. And residents at the West Broadway Homes portion of the West Broadway state public housing site do NOT get grievance rights on nonpayment evictions, since BHA, DHCD, and the private manager have agreed that normal BHA policy does not apply and that DHCD limitations must be followed.

Response: Thanks for the comment.

Comment: Getting Data Needed to Evaluate Process; Possible Tweaks

Actual Grievance/Hearing Decisions: The BHA's current Grievance Procedure does not provide that there will be a set of redacted decisions (with personal identifiers deleted) available for public review. However, this is a requirement of DHCD's regulations. See 760 C.M.R. § 6.08(4)(g). There is no parallel requirement in HUD regulations for either federal public housing or Section 8, nor for DHCD applicant appeals. DHCD has, however, established and kept up a digest of its adjudicatory decisions on tenant selection

cases (again, with names and personal identifiers withheld) which is freely available to the public, and which helps in the evaluation of the efficacy of its tenant selection system.

We would ask that if the BHA has a set of redacted grievance panel decisions for the past period of time (say for the past 3 years) that this be made available for review. We would further ask that if BHA has not yet done this for its grievance and other decisions, that it do so, and that this be available for review. This will be of immeasurable value to reviewing what kinds of cases BHA is processing through its system, how it is handling them, and what revisions may be needed.

Types of Matters Heard, and Comparison to Overall Cases: Presumably the majority of BHA public housing grievance hearings concern either evictions or transfers, and the majority of Section 8 informal hearings concern terminations. It would be helpful, though, to know how many other types of cases are heard, what they are, and what the results are, since it may be that there are better ways to resolve certain matters. In addition, it would be helpful to get overall statistics: how many BHA eviction cases are there in a given year, and what happens to the ones that go to court (maybe broken out by case type)? How many transfers, and how many are denied, and

again, how does this break out? How many Section 8 terminations are there overall, and do these break down into certain categories (failure to complete recertification, inspection issues, lease violations, unreported income/household membership, criminal activity, etc.)? Moreover, if the statistics themselves without additional data would be misleading, the additional data should be provided—for example, if BHA takes a certain number of cases to court, but in x% of cases, the tenant gets to stay, or how many cases were there when termination was authorized but BHA ultimately didn't go forward, etc.

Panels Versus Hearing Officers, and Different Kind of Panels: The advantage of a hearing panel, as opposed to a hearing officer, is that it gives residents a role in the decision-making. However, given the way that panels are set up, as noted below, it may be difficult to give sufficient time for development of a full record. There is not the same opportunity, for example, to provide post-hearing submissions, since the same panel may not reconvene. In addition, given the need to render a decision while all panel members are present and the evidence is before them, the process is often rushed. Some have argued, from both the BHA and the tenant side, that a hearing officer system may

yield better results, at least if the hearing officers are properly trained and are impartial. On the other hand, some housing authorities have hearing officer systems that yield decisions which provide no guidance as to what facts were found or what standards were used.

One example that has been brought up is the system used at Quincy Housing Authority, where there is a three member panel with one PHA employee and one tenant, but with a third neutral member who is an attorney or trained in the law who is given responsibility for breaking ties and for writing the actual decisions. Given the volume of cases at the BHA, it might not be possible to have just one panel, and so there would need to be recruitment of a number of individuals willing to play this role. There is still the question of how to mesh a multiple member panel with post-hearing submission where the panel members identify additional information that might be relevant to rendering a decision.

#### Training Needs.

#### Sufficient Time to Evaluate

Cases: It would help to know, for existing Grievance Panel members as well as hearing officers, if there are training needs that they have identified, or other barriers to them effectively carrying out their function. I don't know if there has been a survey.

For grievance panels, as noted above, GBL's general

experience is that the panel hears all evidence on the same day, does not keep the record open, and often votes right after the tenant and affected BHA staff members leave regarding what action will be taken; it may be that all decisions are also written on the hearing forms that same day. DHCD regulations, on the other hand, usually give hearing officers/panels 14 days to issue decisions, as well as the ability to hold the record open as long as post-hearing submissions are provided to all involved. It may be that allowing panels (like hearing officers) time to reflect and issue more detailed decisions could create more problems that it would solve, particularly if memories lapse, there is the need to coordinate panel members' schedules, or there becomes a mounting backlog of undecided matters. It may also be that cases should be assigned to certain panel members for decisions to be written up in between panel meetings, and for the panel to review as a whole when it reconvenes, with the goal of making grievance panel decisions more similar in terms of detail of analysis and depth to the better hearing officer decisions. On the other hand, this may slant decisions more toward those with legal training. It may be that different types of cases require different approaches.

Informal Resolution: As noted above, one of the values

of BHA's public housing eviction process is that all tenants are given the opportunity to attend a scheduled private conference with the manager. Many cases get resolved at this level and never turn into grievance hearings: the manager may believe that the tenant is sufficiently on warning, or the tenant gave an acceptable explanation for what took place, or other services or payment arrangements mean there's an acceptable manager's agreement. While we understand that there are cases where this is merely paperwork—the tenant doesn't appear or matters are clearly beyond what can be worked out—there's value to this step in most cases. We think BHA should seriously consider a similar step in Section 8 participant cases and applicant cases, at least once an informal hearing has been scheduled. A step would be for the leasing officer or Occupancy Specialist to contact the participant/applicant for either an in-person or telephone conference to talk through the issues in advance. Moreover, there may be categories of cases to separate out (such as recertification or inspection issues for Section 8, and update/verification issues for applicants). Moreover, there's nothing clear in the current system about who the participant or applicant (or their advocate) is to contact regarding informal resolution prior to the hearing. The rules

for informal adjudicatory hearings under G.L. c. 30A provide a useful model by providing that the agency shall designate a person with whom the grievant may discuss informal resolution, and the parties then notify the hearing officer in writing of any resolution that can result in withdrawal of the hearing request.

While GBLs and other advocates do this all the time with Occupancy, Operations, and Leased Housing staff and the Grievances and Appeals Department, it would help to lay this out (it could be an element of the scheduling notice for the hearing).

Find Out What Others Do, and What Their Experience Has Been: It may be useful to find out what other housing authorities have done, both in Massachusetts and elsewhere, and what elements of a hearing process have been found to work best. As noted above, hearing panels have been used for Section 8 and state rental assistance elsewhere in the state, and there have been some articles and court decisions about how to improve the process. It will also be important to compare Boston with other housing authorities of similarly sized programs and needs.

Response: Thank you for your comments. Leased Housing is not contemplating changes to

its Grievance Procedure at this time.

(1) "Actual Grievance/Hearing Decisions": DGA will work on compiling a database of redacted Grievance Panel decisions and will maintain it going forward. However, it would create a significant administrative burden to do this with other types of decisions. Hearing Officer decisions (as opposed to Panel decisions) are generally much longer and contain more identifying information. In the past two years, DGA has issued well over 1,000 hearing decisions each year. To maintain a database of all decisions would further strain DGA's already limited resources, potentially delaying the appeals process for all. (2) "Types of Matters Heard, and Comparison to Overall Cases": DGA may be able to obtain certain statistics relating to quantity of hearings requested and result (i.e., upheld, reversed, dismissed, default). However, it would be extremely difficult to break down in the manner suggested. Some appellants are appealing more than one issue at the same time (for example, a proposed termination of Section 8 assistance may be based on multiple alleged violations, only some of which may be upheld). Moreover, after hearing decisions are issued, DGA has no involvement in any additional process (for example, DGA would not generally be aware if

the Housing Court reversed a Hearing Officer's decision to uphold an eviction). (3) "Panels Versus Hearing Officers, and Different Kind of Panels": DGA will take these suggestions under advisement. (4) "Training Needs, Sufficient Time to Evaluate Cases": DGA will take these suggestions under advisement. (5) "Informal Resolution": Currently, Leased Housing does attempt to resolve many Section 8 termination cases prior to hearing. Generally, these are recertification and inspection violations cases. DGA cannot comment on Leased Housing's/Occupancy's ability to conduct pre-hearing private conferences or to provide a framework for resolution outside of the hearing context. However, in the past two years, DGA has received over 2,000 hearing requests each year. It is likely that pre-hearing conferences and/or attempt at resolution in all of these cases is simply not administratively feasible. (6) "Find Out What Others Do, and What Their Experience Has Been": DGA will take these suggestions under advisement.

Comment: S Grievance Procedures: There is a discussion of Grievance Procedures at p. 28, 5.A. Some issues regarding the grievance procedures used in both Mixed Finance sites and for Section 8 participants have been raised over the course of the year. It



has been a while since BHA has looked at this issue seriously with its residents; its public housing grievance procedure was last revamped in 1997, prior to the PHA Plan process. Attached as Exhibit A is a separate “talking points” piece on this. We hope that this is a matter that BHA and residents can grapple with this coming year and develop revised procedures for FY 2014.

Response: Thank you for your comments. The Leased Housing Department is not contemplating changes to its Grievance Procedure at this time. The Department will certainly consider your comments and talking points and will be available to both advocates and participants in the coming year to discuss further.

### **Human Resources:**

Comment: S p. 22: On the BHA organizational chart, should Edna Rivera-Carrasco's position be on the chart?

Response: BHA will take this comment under consideration.

### **Leased Housing:**

Comment: Tenants should be informed what their utility allowance is. Tenants are not informed of this. Nor are they informed when the utility allowance changes whether it is an increase or a decrease.

Tenants are not informed if a medical deduction is not accepted for what ever reason during their recertification. Tenants should be given the opportunity to correct the situation if possible so that the medical deduction can be accepted.

Tenants should be notified if there is increase in the medical deduction amount they must absorb yearly before they can claim medical deductions. Tenants were not informed when the formula for figuring this was changed a while back.

Response: Thank you for your comments. Any question(s) regarding a client's certification and how their rent share has been calculated should be directed to their Leasing Officer, who is best able to answer the specifics regarding an individual's case.

Comment: Tenants should be able to get an answer from their leasing officer in a reasonable amount of time when questioning something on their recertification and not be told that their file is upstairs for weeks or months at a time.

Response: Thank you for your comment. If a client feels that a staff person has been unresponsive to a question within a reasonable amount of time, the client may ask to speak to that individual's supervisor to resolve the issue.

Comment: Tenants should be able to email questions concerning their recertification to their leasing officers and get a response from them. Many issues can be resolved with email and do not require an in-person appointment to correct.

Response: Thank you for your comment. Email is a great tool which is being used more and more by Leasing Officers, clients and landlords. There will, of course, be times when a telephone call or a face to face interview may be necessary.

Comment: Project Based Voucher Pilot Program: HomeStart (comment seconded by St. Francis House) understands that the BHA has established a pilot program to allow selected PBV owners to screen applicants on the waitlist before BHA does; HomeStart commends the BHA in thinking innovatively to attempt to try to fill units faster. To ensure the pilot program's success with the wider community and various stakeholders, HomeStart asks the following:

a. Publish guidelines of the Pilot Program in the S8 Admin. Plan. HomeStart asks that the guidelines that the participating PBV owners have to adhere to when screening applicants is published in the Admin. Plan to give applicants and advocates access to the processes the owner companies will adhere to. This will help to give the process transparency, and to assist advocates in knowing the steps of the pilot in order to prepare applicants to have swift screenings. The Leased Housing Department has given HomeStart and various other agencies the guidelines, which is greatly appreciated; we just ask they are published in a centralized document do everyone has access to the information.

Response: Thank you for your comments. As this program is in fact a Pilot Program, the information will not be made public at this time nor will the program be added to the Administrative Plan at this time.

Comment: b. Data to measure outcomes of the Pilot: HomeStart believes there could be helpful data to be derived from this pilot. HomeStart encourages the BHA to find a mechanism to measure basic data outcomes of the pilot (length of time of screening, length of time of vacant units in the pilot program, anything else owners/the BHA would want to know). While this pilot is an

innovative idea worth praise, it will be helpful to know if it actually does reduce vacancy lengths of time.

Response: Thank you for your comment. The BHA will take this under consideration.

Comment: (also Occupancy) Standardization of screening processes between the Project Based Voucher Units, and the Project Based Voucher Units owned by the BHA

HomeStart (comment seconded by St. Francis House) has been able to complete the screening process with the new branch of the Occupancy Department known as the Leased Housing Public Housing branch (LHPH). This staff consists of staff from the public housing (Occupancy) department screening applicants for the LHPH developments, which are Project Based S8 Vouchers owned by the BHA.

In our experience HomeStart feels that there is a lack of standardization of screening between the LHPH and PBV departments. HomeStart understands that the LHPH screening will be more stringent than a screening in the PBV department because in the LHPH cases, the BHA is the landlord.

However, HomeStart has never seen the LHPH department issue a denial letter stating that the applicant does stay on the

lists for all of the other PBV properties he/she had applied for. Essentially, it is very unclear is a.) the LHPH is giving owner denials (because it is not written on the denial notices), and if they are, in what instances are they, and in what instances are the applicants being taken off of all the other PBV lists.

This has been an incredibly hard system to navigate for advocates and applicants. HomeStart is asking for a two-fold response to this issue: 1.) Can the BHA put the procedures in writing in the S8 Admin Plan on how BHA owner denials will be treated (what circumstances make for an owner denial, what circumstances take someone off of all the PBV lists), as well as put in writing to the applicant in denial notices that a denial from the LHPH program is an owner denial, and 2.) Meet with providers to discuss the circumstances that cause a BHA owner denial in order to incorporate input from the wider community.

As an additional note, HomeStart believes that if an applicant does not have any automatic bars from the Section 8 program (i.e. lifetime registered sex offender), the applicant should receive an owner denial from the BHA, and stay on the other PBV's selected, especially since some of the PBV's have supportive

services that can accommodate more severe housing/criminal histories.

Response: Thank you for your comments. The BHA management of privately owned sites does not require that the Leased Housing Administrative Plan change. The BHA managed sites are privately owned sites like any other PBV sites the Leased Housing Department serves. As always, an applicant is screened for Section 8 eligibility first. If he/she is not eligible, then he/she would be removed from all PBV/Moderate Rehabilitation waiting lists. A denial by an owner only affects that owner's list for that specific site and no other.

The BHA continues to review these processes to ensure it adds clarity for all involved parties. There are existing and distinct notices for the Section 8 qualification requirements per the Administrative Plan and once the clients successfully complete the Section 8 requirements he or she is referred for the landlord screening process per the Admissions and Continued Occupancy Policy (ACOP). A fact sheet has been created as well in order to assist clients to better understand both requirements. All clients for any of the Project Based and Moderate Rehabilitation programs are required to successfully complete to distinct screening processes: 1) Section

8 requirements per the BHA's Administrative Plan and 2) Landlord requirements per the Landlord's criteria. For the Lower Mills and Heritage Corporations the requirements are per the Admissions and Continued Occupancy Policy (ACOP). Clients who successfully complete the Section 8 requirements but fail to complete the Landlord's screening process are considered to have rejected an offer and therefore, per the 2011 Administrative Plan are removed from all Project Based and Moderate Rehabilitation waiting lists. However, if the Applicant successfully completes the Section 8 requirements screening and also completes the Landlord's screening requirements but the Landlord denies the client due to criminal record, housing history, etc., the applicant is removed only from that specific Project-Based or Moderate Rehabilitation waiting lists since the other Landlord requirements may be different. As you are fully aware the BHA has monthly meetings with various advocacy agencies to discuss specific cases, processes, potential barriers, and explain the various BHA programs, and improve all levels of communications. The BHA is always more than willing to sit with you and any other interested agency to go through this entire process to clarify any questions you may have as we are always working towards a transparent business process.

Comment: AP New PBV Units: This indicates, at p. 12, 7.0.3, that BHA anticipates adding another 100 PBV units to its portfolio. It would help to get information about what specifically is planned—what unit sizes, in what neighborhoods, went rent up will occur, and any characteristics of the housing (including accessibility features, whether restricted to elderly/disabled or including family units, whether any self-sufficiency requirements). In addition, if BHA did NOT provide this information last year, it should be provided now detailing what was developed over the past year. As is discussed further below under the ACOP/Administrative Plan, if there are a number of units that will be available for lease up, BHA should consider use of the pilot approach used for some PBV waiting lists, or other means to expedite the process of filing vacancies. In addition, if BHA has or plans to use RAD for "orphan" programs (like expiring Section 236, RAP, or Section 8 Mod Rehab contracts), it would be helpful to get the details. This further indicates that all units must serve homeless households and/or elderly households (ages 62 or older); HUD's requirements are not age limited, and "elderly" is shorthand for either "elderly" or "disabled" families. BHA should

correct this to avoid any misunderstanding.

Response: As stated elsewhere in the comments; presently for early January 2013 the BHA has 66 units under Agreements to Enter Into Housing Assistance Payments (AHAP) Contracts; 7 units with all final approvals, except for a final design sign off, with the anticipated AHAP to be signed in January of 2013. The agency also has 53 units with award letters where those projects have other financing awards pending and subject to several other conditions. The projects under AHAP are ideally to be brought on line, subject to several contingencies, during the course of 2013. They range in size from 5 units to 12 units. The neighborhoods include East Boston, Dudley, Mattapan and Jackson Square at the Roxbury – Jamaica Plain line. Except for the 10 units being developed in Jackson Square with a preference for elderly households all the other sites are multi-bedroom units appropriate for families. These sites will all offer supportive services to the families residing therein with a goal of assisting the families with economic self-sufficiency goals. For these projects that are approaching delivery in 2013 all are the projects that the BHA and the City's Department of Development accepted applications for in the summer of 2010 where the Request for

Proposal Scoring protocol offered additional points to developers building family sized units with self sufficiency supportive services to be made available to the residents.

BHA staff is always available to provide additional detail pertaining to specific projects.

Regarding serving homeless households and/or elderly households (ages 62 or older), this is appropriate in that HUD permits preferences at individual sites and HUD in its most recent PBV HAP form amendments permits a break out from elderly and disabled.

No one can be prevented from applying to a particular sight as is contemplated in the public housing and multifamily regulations, but PIH does permit developers/ owners to request specific preferences at the several sites.

Comment: AP Housing Needs and Waiting List Data (see p. 15, 9.0): As stated in prior years' comments, it would be helpful to break out the data on housing needs more. Knowing, within demographic groups (race, ethnicity, elder, family, disabled), what the numbers are for 0-30% of AMI, 30-50% AMI, and 50-80% AMI would help, particularly for Section 8 resources in which 75% of turnover assistance is targeted to 0-30%. This may be a problem with the HUD template,

but could then be provided in supplemental data.

Similarly, on pages 16 and 18, as noted in prior years' comments, it may be helpful to have separate breakouts on waiting list data and turnover for different housing types for the Section 8 program and public housing. For example, the Section 8 HCVP waiting list is closed, and vouchers would only be issued to those who were in the 2008 lottery pool, PBV tenants who qualify to relocate, and certain limited other categories; PBV and Mod Rehab waiting lists, on the other hand, remain open to any Priority 1 applicant, but are far more likely to consist of studio and 1-BR units and to be utilized by elderly and/or disabled single applicants rather than families with children. In addition, it would be helpful to know, of those still on the list from 2008 lottery, how many were culled out for no longer qualifying for Priority 1 status—it is doubtful, as more time goes by, that most applicants can remain in Priority 1 status for prolonged periods. As has been mentioned in the past, it is NOT clear why there are so few Asian applicants for the Section 8 programs, in comparison to the Asian public housing waiting lists. For the public housing waiting lists, it would be helpful to break this out separately by family public housing and family public housing. It would also be

helpful, on the chart which shows the number of applicants by bedroom size, to also show the number of total units by bedroom size, and expected annual turnover in those bedroom sizes.

Response: Thank you for your comment. The BHA has provided the information as required by HUD's template. However, the BHA will take your comment into consideration to determine where this information may be made available. It may be possible to include some of this information on the new website.

Comment: AP Miscellaneous: On p. 20, 9.1, this also mentions review/revision of the priority/preferences, but this isn't part of this year's plan (only clarification)—was this just meant to refer to what was done in the fall of 2011?

Response: BHA has clarified the reference in the Plan.

Comment: S p. 8, 1.B(1)d: Same comment as above on the FBI check—answer should be no, and BHA should explain what it's doing, what the barriers are, and expected time-line for implementation. See also comments above about use of Dru Sjodin and, as HUD implements it, EIV for tracking past debts or history of termination/eviction from HUD assisted housing.

Response: Thank you for your comment. The BHA continues to seek the implementation of the FBI triple I background check. Regrettably, we need the assistance of the Boston Police Department and the difficulties appear to be due to staff resources. Answering no means the BHA may be required to exercise a public hearing process should we be successful with obtaining the needed assistance. The BHA does run the Dru Sjodin, National Sex Offender Registry during the admissions screening process as well as out of state CORI and will comply with HUD's EIV requirements.

Comment: S Section 8 Payment Standard: This doesn't say (at p. 19, 3.B.(1), what the exact payment standard will be for the coming year and the RAB should be told what it will be—i.e., 110% of the Fair Market Rent (FMR) published by HUD effective October 1? 105% of FMR? Is there any planned changed from the prior year, other than updating the FMR, and what would be the effective date of the update? If this varies by the community covered by BHA, any differences by community (and in comparison with what was previously paid) should be outlined.

Response: Thank you for your comment. The BHA regularly monitors the rental market, the

percentage of income participants pay towards rent and utilities and changes to HUD's FMR for our service area to determine if a change in our Payment Standard is warranted. Copies of the BHA's Leased Housing Payment Standard Schedule are available on our website or from any Leased Housing staff person.

Comment: S Section 8 Success Rates and Rent Burdens: This refers, at p. 20, 3.B.(1), to success rates and rent burdens. Success rates are the percentage of Section 8 voucher holders who are able to successfully lease up within search periods; rent burdens concern how many Section 8 households are paying over 30% of income for rent, and how much they are paying. HUD looks at both success rates and rent burdens to determine whether a PHA's payment standard may be too low so that families are either losing housing opportunities or having to pay excessively high rents in order to succeed. Can BHA provide the RAB with current information on success rates and rent burdens? BHA should also describe what steps are taken to advise persons with disabilities of their right to seek a higher payment standard as a reasonable accommodation if they cannot secure housing. In addition, it would be helpful to get information on any updates with

utility allowances, since these affect applicants/participants ability to secure and maintain their housing.

Response: Thank you for your comments. The BHA is happy to provide the RAB with more detailed information regarding success rates and rent burdens if requested. Current payment standard and utility allowance schedules can be found on the BHA's website or from any Leased Housing staff person.

Comment: S p. 22, 4.A: The organization chart has a blank line without a box in between Kelly Cronin and Paula Saba. Was something supposed to go there? Would PBV and MR both be with Tom Ryan? What about Enhanced Vouchers (EVs)?

Response: Thank you for your comments. The Chart will be revised to include Barbara Sheerin. Tom Ryan would in fact oversee both PBV and MR and Enhanced Vouchers would fall under Kelly Cronin.

Comment: PR Self-Sufficiency: Here again, Alice mentioned the MBHP workshops and wondered whether BHA could set up something similar. Might be good to convene quarterly workshops open for all Section 8 participants, and to have a traveling presentation on self-sufficiency initiatives that could over the course of the year present at sites or in clustered

neighborhoods (not just listed to family public housing, but could include things like the PACE program—basically a presentation of what all there is to offer).

Response: The BHA administers one of the largest FSS programs in the Northeast. As of the end of calendar year 2012 the BHA had 323 families enrolled in the Leased Housing FSS program. For the families enrolled, 222 have escrows averaging \$3,500 per family. The BHA has an active waiting list of 368 families and the FSS Leased Housing waiting list is always open. BHA staff is reviewing schedules and is planning to commence quarterly outreach and briefing sessions commencing June of 2013 to continually conduct outreach to otherwise eligible families.

Comment: Good evening. I have a problem in the building where I live. Recently they renovate the whole [older] apartments, the inside of the apartments. However, I'm glad he spoke about it because I [said] when they was fixing the apartments, they brought washing machines which we had before, and dryers, however, they [inaudible phrase] downstairs basement. I have...I don't know. They keep saying no, but I know they bought them; they bought brand new washers and dryers [inaudible phrase]. [They could

give us a card] because all the buildings do have that. That's my first complaint. Anyhow...

And my question is, what I do have is a subsidized unit but is attached to the unit. So, recently – about eight months ago – I – in 2010 I had to retire from my job. I was a substance abuse counselor, because I have something called sciatica in my back and it's getting worse day by day. I live on the third floor so therefore, I wouldn't [inaudible] when they asked me to [inaudible phrase]. And then obviously I went to Boston Housing but I'm on the waiting list. My question to you is: Is there – they said they cannot move me to the first floor or [inaudible] elevator because it's really not for me [inaudible phrase]. I said I retired and I'm on disability since 2010. So they said the unit is – subsidized is attached to the unit. And so therefore, they can move me, however, and the office of [inaudible] management, which was [inaudible property] before, there is apartments there. There's a brand new building, a brand new office. They answer the phone. They used to answer the phone [that was in the office] but now they have one of those voice things that tell you [inaudible phrase]. Susan [Inaudible] but she managed that property. However, what I really want is to see how there is [inaudible phrase]. So I really do [inaudible] the right to move to

another place from the building [inaudible] health or something due to the fact that I have been here for six years and I never failed to pay my rent. Now, on disability, and so [inaudible phrase] lowered my rent. My main concern is that one, why do I have a unit and I cannot move out of it and if I move out of there, I lose my subsidy?

I thought it was something about Section 8 but I'm not sure. [Inaudible phrase] anyone who move in there, they come from shelters. I came from a shelter. And they put [us] there but I was transitional so they could get an apartment. [Inaudible phrase] it's a studio. I'm happy because they did fix it inside.

My main question is if they could get me an apartment on the first floor that I could move in and still pay the same rent. Thank you.

Response: BHA staff gathered personal information and staff will respond.

Comment: Hi. My name is Rachel [Eisenberg] and there is something I need to know, like two things. Five years ago, I was in a house at Wentworth but I didn't know [where you] have to move [inaudible phrase] what to do. I moved to Boston when I was [eight years old] [inaudible phrase] but [inaudible phrase]. I just love to tell [inaudible phrase] ready to

move. [Inaudible phrase] [no options to stay]. [Inaudible phrase] agency for shelter. They said you should visit [inaudible phrase] agency for shelter. I'm not going to [inaudible] any program that [inaudible phrase] housing when they have to move [inaudible phrase]. If you want to buy a house, I asked – they told me [inaudible phrase]. I don't know what to do. Do you have to put money down or how do you have to [win] if you want to buy a house in leased housing?

Response: The BHA's Leased Housing Homebuyers program is for Housing Choice Voucher clients who have participated in the Family Self Sufficiency program.

Comment: INTERPRETER: She [inaudible phrase] [and maintenance of the house]. She has Section 8 [inaudible phrase, child yelling] the maintenance people and the [inaudible]. [Inaudible] the maintenance and the [inaudible phrase]. Nobody notices. The problem was the maintenance [inaudible]. [Inaudible] of the power [of] maintenance [inaudible].

Every time they [inaudible], they shut it off. [Inaudible phrase].

[Non-English]. This is broken [and] this is broken. [Inaudible] only live myself and me, and [my son moved out] [inaudible]

[only alive]. A police car [is not] helping me.

Yes, I have the voucher. I have the [inaudible phrase]. I've lived in America 11 years.

Response: BHA staff gathered personal information and staff will respond.

Comment: Good morning, everybody. My name is James Cox. I'm a Section 8 voucher holder. A couple of things – one, I'm considering becoming a [RAB] member and I would like some information. This is my first meeting attending here since I got my Section 8 voucher which was June 1 of this year.

Some of my concerns, just as [he said], was about the smoking. The unit that I live in, it affects me, people smoking marijuana, drugs, whatever. It affects me. I've been in recovery for a long time so I was out there, I was [there], so I can understand to a certain degree and also smoking cigarettes in the common area as well.

I was in the midst of making breakfast, and where I live at, this is the second time this has happened. They cut off the water supply without notice and I wasted a lot of food [in] preparation. I needed the water, to turn the water on. I didn't get a warning ahead of time that they were shutting off the water. I don't know if that's a big problem or not.

The second question is maintenance. In regards to, are they really doing their job, my opinion is sometimes or most of the time, no. But I want to really know what's going on in these meetings before I can really get into detail. I would like to learn more and understand more, but I just wanted you to be aware.

Response: BHA staff gathered personal information and staff will respond.

Comment: INTERPRETER: Thank you for listening. He has a paper that was given to him, by the housing department because he wants to move, [Renaldo Supovona]. The apartment he lives in now, it looks like a hotel and it's very nice. He would like not to move out from where he lives right now, but the only main problem is to get to the elevator and the way to get there is like a hill; it's very steep, very [inclined]. Even cars have problems going up that hill.

He was given this letter at the BHA office. He was not given it by the leasing officer. He doesn't know the name of the person that gave him this letter because the name is not very legible but it's not the leasing officer. He lives by himself. He doesn't have anyone to help him. Sometimes when he goes to church, sometimes he asks for help in translating his letters.

He told BHA that when he found an apartment that it's not the second or third floor. He was going to give his 30-day notice to vacate the unit. He asked his pastor and the pastor told him that the Section 8 voucher he was given has an expiration date of February 2013 for him to find another unit to move. He had already previously told two people at the BHA office. He repeats again that he was going to let BHA know he found a new apartment. He is looking for an apartment currently. He is currently going to BHA. He has obtained a list of available apartments. He has found four or five with one bedroom, but they are all second or third floor.

He's doing all in his power to find a reasonable accommodation because he has bad disks and normally his feet get as swollen as watermelons. He would like to know what this letter means, if he has to vacate by February, and if not, if he's going to lose his Section 8. Thank you very much. He would like to know who could help him.

Response: BHA staff gathered personal information and staff will respond.

Comment: My name is [Lisa Moses]. I'd like to speak but I need somebody to [inaudible].

INTERPRETER: The problem I have is that this is the [second] time that people have come to inspect the house. [She received] a letter from Boston Housing stating that she doesn't belong to the [inaudible] of Section 8 anymore.

Yes, she does have a letter for proposed termination. She is saying that [she's] given 20 days that she has to have a meeting or in 20 days, after 20 days she cannot do anything at all in the situation? But she has the letter with her. She's saying that also they asked her for documentation. BHA asked her for documentation and she had to leave work and go there to meet with them. But even though they keep on calling her and telling her she needs to give proof of employment. She's not [inaudible].

She used to live in a shelter. She was in a shelter before with her kids. Then she moved to [inaudible] Section 8. Every time she said that she wanted to leave, the owner of the house is telling her that she will lose her Section 8 if she moves.

She's saying [the representative] she had at Boston Housing does not understand her and every time she goes there, [inaudible].

Response: BHA staff gathered personal information and staff will respond.



Comment: Good afternoon, everyone. My name is [Inaudible]. I have the same problem as her. Since August 1 to November, I was received [to be] [inaudible] payment. They changed the payment [two times only], so [what I know], when I was [upright], they asked me, I give it to them. If they ask me, I give it to them. Then in October I went to [Chauncy Street] downtown and I was sitting with my leasing officer and she asked me to do something so I [inaudible] but I couldn't do it. So, I said, "What do you want me to do? Do you want me to travel to [Florida] so I can [inaudible]?" Finally, my sister went and she sent the paper to her. It was a letter, like she was explaining. That gives me like 20 days to answer, [inaudible] answer, and they [will release me from] [inaudible]. So, when I heard BHA about this hearing here, I thought that was the same thing [inaudible].

Like I said, after I [was sent] this paper, I thought that was the same thing, so [I did nothing]. [Inaudible] to them to talk with them because August 1 when I went to that, I said that I was [inaudible] a while and I have to go to my sister's to take a shower, me and my kids. The stove wasn't working. I'm asking myself, how come the inspector passed the house like that?

Yes. They will give you a lot of stress because all the time [you have to prove you have this]. That's all I want to say. Thank you.

Response: BHA staff gathered personal information and staff will respond.

Comment: Leased Housing

There have been some challenging transitions in Leased Housing over the past year. Marilyn O'Sullivan, long-time Chief of Leased Housing and Operations, became head of the HUD regional Office for Public Housing, and at the same time David Gleich, director of BHA's tenant-based Section 8 program, left the BHA. Both Marilyn and David were consummate professionals and were open-minded and pro-active in solutions to Boston's assisted housing dilemmas. They are missed. New leadership, however, is taking responsibility and brings its own strengths: John Coddington's background at the Everett Housing Authority means that he has a solid understanding of the relationship between public housing and rental assistance programs, as well as the need to make programs intelligible and non-bureaucratic. Kelly Cronin's long history with the BHA's Section 8 voucher program and sensitivity to resident needs helps to insure that any fresh perspectives will

be accompanied with institutional memory. And Angela Marcolina generously covered the gap in staffing with a sensitivity to both the legal and policy issues involved, and has returned after hiatus to her role coordinating BHA Section 8 legal work.

One issue that's arisen concerns what applicants/participants can expect in terms of program size and turnover. Thus, there are a number of Section 8 Project Based Voucher (PBV) participants who ordinarily would have expected, since they have lived in their housing for more than 12 months and have otherwise been in compliance with program requirements, that they would be eligible for issuance of a tenant-based voucher. However, they have been advised that there is a freeze on issuance of vouchers. Does BHA have any estimate about how long this freeze will last, and are waiting lists being created for current PBV participants and any ordering of requests once funding is available? Is there any threat that existing Section 8 vouchers or HAP contracts are threatened with termination? Is any of BHA's current policy on terminations for program violations (discussed further below) driven by the need to reduce program size/ commitments, and if so, are there trade-offs involved here

between meeting the needs of current participants and setting aside funds in the future for PBV set-asides? Getting good information on this will assist participants and partner agencies in knowing what BHA's current situation is as well as in weighing approaches, policies, and options. Certain policy issues for Section 8 are addressed further below.

Response: The BHA carefully monitors the amount of funding it receives each year and closely monitors its spending of those dollars. To date, Congress and the President have not approved a federal budget. While on a continuing resolution, and until actual funding amounts are announced, the BHA will continue to be conservative in its spending. Furthermore the BHA will continue to exercise the discretion it always has in reviewing termination cases based on the merits of those individual cases.

Comment: PR pp. 15-16: This should be updated to describe whether the balance of the 173 Section 8 PBV new construction units anticipated to be occupied during 2012 were done, and to provide details as to each (this mentions 56 of them due in 2011, and also 43 awarded in 2010, but it's unclear how many were eventually completed). If all were not done, any plans to carry over into 2013 should be detailed, as well as any plans

for new PBVs (the annual plan appears to say another 100 are to be allocated in FY 2013).

Response: The BHA is happy to report that 100 PBV units were brought online in calendar year 2012; representing 6 different sites. Also records at this agency indicate that 502 PBV units were brought online in calendar year 2011; including the 2 BHA owned sites namely Lower Mills and Heritage that were converted to PBVs. It is important to note that Lower Mills and Heritage comprised of 424 of the 502 units brought online, meaning that 78 PBVs were designated to sites under private ownership, not the 56 the commenter references. For 2013 the BHA; has 66 units under AHAP; 7 units with all final approvals pending an AHAP and 53 units with awards pending other financing.

BHA staff is always available to provide additional detail. Pending construction can often be delayed or changed depending upon financial markets, and public funding availability.

**Legal:**

Comment: When this Community Center and Common Area Use draft was composed, the Boston Housing Authority should have asked the

legally elected task forces to join in the discussion. The Task Forces (local tenant organizations) were never asked to attend.

We have real concerns, we feel that there was never any real thought to the implications of what can and will happen. Common areas would be courtyards and the onsite play area. Courtyards are right under the tenant's windows. In the spring and summer months the smells and smoke from the use of grills will be going into apartments. Music playing in these areas will be a problem because they always have it loud and too late in the night for other residents.

As for cleaning up the area after an event, some groups will but others will not. They think that maintenance should do it. Play area use in the nice weather is used by all residents. We have children and adults there from morning to late at night. To allow someone to use the area for private use would not be fair. Other tenants would be made to feel like interlopers at their own developments. Use of the community center The task force was elected by the residents of the development to represent them. We do not get a paycheck. The community center is open for all, 5 days a week with posted hours. The community center also functions as the task force office. We are a very active task force, so to mandate any outside use really isn't fair. We

have several programs in place on a weekly basis here.

The community center is also the home of the Faneuil Tenant Organization, Inc. (aka FTO, Inc.) which is a state and federally recognized 501 c 3 corporations, since 1983. The FTO, Inc. is funded by grants and donations. The FTO has furnished both the youth center and community center with everything from 2 computer labs, fax, print & copy machines, entertainment systems, weight room, chairs and tables, to name a few. All basics including toilet paper, cleaning materials, bottled water, mops and buckets are paid for by the FTO, Inc. The Boston Housing Authority does not own any equipment in the community center or youth center other than the stove and refrigerator.

The use of the equipment in our community center and youth center is monitored on a daily basis, by the task force and FTO, Inc. volunteers during business hours.

The issue of keys being given to residents when requested is not a good idea as a mandate, here. We feel that the type of operation that is run here at Faneuil Gardens and other developments is being disregarded. The Boston Housing Authority needs to communicate more, now and in the future on this subject concerning this new policy draft. Would B.H.A. give a tenant keys to 52 Chauncey Street?

Response: Please see response below to comment on Community Space Use Policy.

Comment: S pp. 43-50, 13: BHA still needs to implement the lease revisions on VAWA (this lease amendment would likely also include the change requiring interim reporting of increases in household income of \$200/mo or more).

Response: Agreed. It is anticipated that the implementation of these lease changes will be accomplished within the next fiscal year.

Comment: Community Space Use Policy

It is clear from the interchange that took place at the RAB meeting in early December, as well as from many questions regarding the content and scope of this proposed policy, that it would benefit from further discussion, and GBLS would recommend that BHA hold off on finalizing this. It is not a mandatory HUD policy, nor is there any magic to getting it done within the current PHA Plan cycle; its inclusion with the Plan is just the result of the need to list in the Plan any policies that BHA has. Moreover, it would probably be helpful to refer this to the REC, as that is a forum which will bring together many of the affected parties.

There are a number of questions regarding the policy. Both the RAB, REC, and S8TI use spaces at BHA developments for resident meetings (RAB Reading Committee, Policy & Procedure Committee, etc.) at sites where there are currently no tenants on the REC/RAB from that site or where there are no BHA Section 8 participants. BHA has had no problem with making conference room space available for these meetings, as it does at its headquarters downtown, without imposing any problems. As drafted here, however, the RAB and any of its committees would need to enter into applications for use of the space, would have to pay a Damage Deposit, and might have to obtain liability insurance. Moreover, imposition of extensive insurance requirements might have a chilling effect on other community space use (for example, Committee for Boston Public Housing (CBPH), Boston Residents Training Initiative, GBLS, or Homestart holding a forum at a development about lease or rent issues, or coming to try to get an Election Committee started. It may be that many of these provisions were really intended for fundraising or outside organizations' activities, but the policy does not contain such limits.

It is also not clear how the policy will be applied at

Mixed Finance sites, where BHA is not the exclusive controller of space. Some uniform standards would be beneficial—as was noted in the REC Mixed Finance MOA, some LTOs have not been able to get space for their programs, and have lost out to community programs. On the other hand, the developer also has a role here.

As was noted at the RAB meeting, in the past LTOs have had key approvals for the use of community space, and that role is not apparent here. In addition, there may be instances where the equipment involved is not that of the BHA, but was purchased by the LTO, and it is important to delineate this.

In addition, there is concern about organizational liability for persons who come to community events. It is not appropriate for organizations to be held responsible for the behavior of invitees, particularly where the meeting is in the nature of a public forum. There have been circumstances in the past where individuals have become disruptive and the residents' organization has done its best to try to curb inappropriate behavior without result. Recourse to public safety staff or police may be necessary. Similarly, there may be instances where individual invitees engage in conduct which violates civil rights

(making disparaging statements based on disability or national origin, for example). This has happened at PHA Plan public hearings in the past, and could certainly happen at some other public forum sponsored by resident organizations. The organization should not be held responsible for the conduct of those individuals. It is worth further discussion as to what the appropriate roles and responsibilities should be in situations such as these.

Response: The motivation for implementing a Community Space Use Policy is to address some abuses of the use of community space by individuals at a development which have the practical effect of limiting or denying resident use of the community space. The goal and intent of the policy is to maximize the extent to which community spaces are made available for use by all residents. As such, any input by local tenant organizations that would serve to accomplish that purpose are more than appreciated. Therefore, implementation of the Community Space Use Policy will be postponed in order to afford greater input from local tenant organizations and other interested parties as may be necessary to accomplish the purpose which the policy is intended to accomplish.

#### Comment: Video Surveillance System Policy

Residents certainly support effective use of the video surveillance system to curb crime and to help with security investigations. There is some question, though, about the “extraordinary use” provision in Section 3.C of the policy. While this is subject to determination by the Chief of Police and approval by the General Counsel, it is undefined and without standards.

Section 7 of the policy refers to mobile or hidden (also termed covert) video equipment in addition to the fixed VSS cameras. It would be best to retitle this Section to refer to that, as otherwise it may be read to apply to the VSS cameras. Moreover, while the title refers to “criminal investigations”, the text of this section refers to the use of the covert equipment for non-criminal investigations “as authorized by the Chief of Police or General Counsel or designee”. As with Section 3.C, this needs more discussion; the phrasing also makes it appear that either the Chief of Police or the General Counsel can authorize this, while Section 3.C makes it appear that the determination of need is made the Chief of Police and the General Counsel's approval is needed. (See also Section 8.C of the policy, which refers to video capture requests from

non-police personnel, and requires General Counsel approval.) Any and all such requests and authorizations must have a clear paper trail.

Response: The BHA thanks you for your comments. Your suggestions will be taken into consideration and revisions to the Video Surveillance Policy will be considered.

For the purposes of the policy the term **extraordinary use** encompasses any video capture request that does not fall under the traditional (“ordinary”) category of investigating and/or determining crimes against the property and/or person. No rigid parameters can be established for this category given the myriad of video capture requests the Public Safety Department has received and is expected to continue to receive. As previously noted all such determinations made by the General Counsel and/or Chief of Police shall comply with BHA policy and be in compliance with all applicable state and federal laws.

Comment: S Violence Against Women Act (VAWA) Implementation: BHA’s VAWA efforts are discussed on pp. 43-50. BHA still needs to implement the public housing lease revisions on VAWA, including bifurcation to exclude wrongdoers but to permit survivors of domestic and

dating violence to retain their housing. This lease amendment would likely also include the change requiring interim reporting of increases in household income of \$200/mo or more, which is not VAWA related but which was circulated for resident review and comment at the same time.

Response: Please see response to comment above regarding implementation of lease changes.

**Occupancy:**

Comment: CORI Question on the Final Application for Admission  
HomeStart (comment seconded by St. Francis House) and several other agencies that convene each month at our housing meetings, have experienced some unintended consequence of the BHA asking on the final application the question “Have you ever been convicted of a crime?”. Recently, the BHA revised the question to read “Have you ever been convicted of a crime (i.e. found guilty of)?” which is an excellent step to prevent unintended consequences. HomeStart and other agencies have found that often applicants, if they are filling out the application without an advocate present, often answer the question incorrectly, due to

a lack of understanding of what the terms guilt/convicted actually mean. Essentially some applicants have answered yes to the question, when in fact they were not convicted of the offense. Subsequently the BHA then runs the client’s criminal history reports, and some clients have had clean records. However, since the client accidentally answered yes to the question, the BHA then asks the client for extensive documentation to show that a conviction never happened.

While we respect the BHA’s duties to screen applicants appropriately for properties, we also ask that the BHA add answer choices to the questions, so that applicants who are unsure of the conviction status feel confident answering that they are unsure if they are not with an advocate. HomeStart asks the BHA to follow the question with the choices yes, no and I do not know, to avoid this confusion in screening cases in the future. Not only does the question cause a lot of confusion during screening, it also extends the length of time of the screening process.

In addition, HomeStart would like to seek clarification from the BHA on how sealed cases will be treated during screening. HomeStart has heard feedback from several clients that when they filled out the application for

BHA, they answered yes to the question had they ever been convicted of a crime. After the application was submitted, the client's cases on the CORI were then sealed. HomeStart would like to hear guidance from the BHA on how they will treat this scenario since we expect this scenario to repeat itself often due to changes in CORI sealing rules.

Response: Thank you for your comment. The BHA has not proposed any changes. The BHA did add clarifying language on the Preliminary and Final Application so clients may respond properly. As you are aware all applicants are provided with the opportunity to explain, mitigate and/or establish a reasonable accommodation for any negative or conflicting information received by the BHA prior to making a final eligibility determination.

Comment: AP p. 15, 9.0: As stated in prior years' comments, it would be helpful to break out the data on housing needs more. Assumption is that the categories above are all renter households in Boston between 0-80% of area median income (AMI), which is the public housing eligible population, and so the three income tiers listed at the top add up to the bottom number (98,763). However, the number of minority households (52,240) and white non-Hispanic households (42,785)

doesn't come to the total—not sure where the gap is (understand that there could be overlap with multiracial households). Knowing, within demographic groups (race, ethnicity, elder, family, disabled), what the numbers are for 0-30% of AMI, 30-50% AMI, and 50-80% AMI would help, particularly for Section 8 resources in which 75% of turnover assistance is targeted to 0-30%. Know this may be a problem with the HUD template, but could then be provided in supplemental data.

Response: Thank you for your comments. The BHA will double check data to be reported as required to ensure the numbers are accurate prior to submission. It may be that some households did not identify with a particular race/ethnicity.

Comment: AP p. 18: Here, too, on the public housing waiting lists, it would be helpful to break this out separately by family public housing and family public housing. It would also be helpful, on the chart which shows the number of applicants by bedroom size, to also show the number of total units by bedroom size, and expected annual turnover in those bedroom sizes.

Response: Thank you for comment. The BHA is required to submit data as requested on the template. However, the

BHA will consider how and where to display the requested information. It may be appropriate to use the new webpage for such information.

Comment: S Use of FBI Checks on Criminal History: On both p.2, 6.0.A.(1)e (for public housing) and p. 8, 1.B(1)d (for Section 8), while BHA has checked off that it uses the FBI data base in checking criminal history, the answer should be “no” for present. As noted in the narrative, BHA is trying to arrange this. It may be worth getting the RAB/public more information about what exactly the barriers have been and expected timeline to resolve this. In addition, if BHA has been using the Dru Sjodin data-base to check on registered sex offender status (as HUD requires), this should be added. Moreover, to the extent that HUD begins to require use of the Enterprise Income Verification (EIV) system to track any debts owed to other PHAs, or a history of eviction or termination from HUD assisted housing, BHA should also follow those requirements.

Response: Thank you for your comment. The BHA continues to seek the implementation of the FBI triple I background check. Regrettably, we need the assistance of the Boston Police Department and the difficulties appear to be due to staff resources. Answering no

means the BHA may be required to exercise a public hearing process should we be successful with obtaining the needed assistance. The BHA does run the Dru Sjodin, National Sex Offender Registry during the admissions screening process as well as out of state CORI and will comply with HUD's EIV requirements. The BHA will add language to the identified pages.

Comment: S Designated Public Housing and Elder Preference: It appears from the information on pp. 30-31 that the number of sites with elder preference (9 according to this chart) is less than it may have been in prior years—is that so? That would show that BHA is generally successful in getting elders to apply at a number of developments, so that the 70/30 mix is met. For Heritage/Lower Mills, presumably the designation here is for just the public housing units; if BHA got HUD approval for designation for the PBV units, this should be outlined somewhere in the PHA Plan.

Response: Yes, the information is correct. The BHA has been successful getting elders to apply. The 70/30 designation is also applicable to both the public housing and PBV Heritage and Lower Mills units. It has HUD approval as it was submitted with the most recent approved Designated Housing

Plan, the FY12 Annual Plan, as well with the operating agreements for each corporation.

Comment: S on pp. 30-31, in addition to Mac's question whether the number of sites with elder preference has changed (and whether this shows more success with getting developments up to the 70/30 ratio), there was the question of what systems/interventions are available when persons with mental disabilities destabilize and have lease compliance issues. In the past, there had been some protocols with DMH to step up interventions/services to try to both address the underlying concerns but also to help preserve the tenancy if possible. Do these still exist? [This is separate and apart from BHA's Reasonable Accommodation Policy, which is resident-driven--question here is what if the resident hasn't requested a reasonable accommodation but it is known that DMH is involved with the tenancy.]

**Response:** BHA staff are not aware of any specific protocols in place regarding this issue with respect to residents in the general population. When there is an incident involving a resident who is known to be receiving services from DMH, the resident's case manager would be contacted. In the

event we are unaware of any service provider we would try to engage an agency if possible. In the elderly/disabled portfolio, this intervention is most often led by the resident service coordinator for the site. If a case proceeds to court, the Tenancy Preservation Project frequently assists in connecting a resident with appropriate services.

Comment: PR Occupancy (p. 12): It's important to get the breakout of where and what the occupancy problems are, since this directly affects tenants at each site. If a site doesn't keep up lease up rate, it's not eligible to do under-housed transfers, and has been mentioned at several RAB meetings this is a big concern. Some managers are a problem with this and with treatment of residents (how people are spoken to).

Response: Site specific information is available. BHA occupancy for the federal portfolio has improved from 94.7% to 97.1% with the completion of several projects that required extensive relocation.

Comment: PR Homelessness Policy: On Mac's point (wanting to know more about how BHA's initiatives inter-relate with overall City policies), some said that screening seemed lax at public housing sites, and felt it was a revolving door. Alice mentioned the need to link

applicants with stabilization workers so they can be successful (for public housing and Section 8 programs).

Response: The BHA works closely with various advocacy agencies and has entered into partnerships in order to assist clients with continued tenancy preservation and lease compliance to ensure our disabled families and families in need of self-sufficiency programs are given equal housing opportunities.

Comment: (Also Leased Housing) PR pp. 16-17: It would be helpful to get a report on the City's Interagency Council on Housing and Homelessness and its Leadership Committee, what goals/objectives were set, how performance has been, any barriers identified, and what BHA's role in this has been. It would also help to know how specifically the goal of reduction of families in shelter was met (i.e., what it was, what the goal was, to what extent has the goal been met, and are there barriers or other steps that are being tackled over the next year). Have the SAMSHA, Leading the Way Home, Healthy Baby, and HomeBase set-asides initiatives been fully utilized now? Specifics would be helpful.

Response: Thank you for your comments. The BHA will

include additional information in the Progress Report.

### **Operations:**

Comment: (Also Leased Housing) AP p. 1, 1.0: On High Performing status (for Section 8) and Standard (for Public Housing), ask BHA to provide latest PHAS/SEMAP evaluations and any action taken by BHA in response.

Response: In February 2011, HUD made significant changes to the PHAS indicators. Under the new system BHA received a score of 76 for its public housing program for the year ending 3-31-11. The score for the year ending 3-31-12 has not yet been received. The BHA has entered into a plan with HUD to address occupancy and rent collection performance.

Comment: S p. 6, 1.A(5)a.: As noted in prior years' comments, the Rent Manual should not only be available at the Management office, but it should be available on line.

Response: It is anticipated this document will be available on the new website.

Comment: S p. 18, 3.A(2).1: This mentions flat rents at Mission and Orchard as being distinguished from flat rents at

most sites. What about the other HOPE VI or mixed finance sites—do they just use the standard flat rents, or do they have their own figures? What will happen at Whittier if it becomes a Choice Neighborhoods site?

Response: BHA staff will investigate this question further and communicate with the commenter.

Comment: S p. 22, 4.A: Re: The organization chart: Why is Shirley Ransom listed twice and with different oversight? How do the functions of Region Assistant Directors differ from those of Regional Property Managers, and how does the chain of command work? Does the fact that Region II has a Senior Asst. Director make a difference on chain of command issues?

Response: Ms. Ransom being mentioned twice was a clerical error that has been corrected. The Assistant Directors of Property Management (ADPM) are responsible for the management and maintenance functions of their portfolio. The Regional Property Manager reports to the ADPM and provides assistance as directed. The ADPM for Region II is designated as senior to acknowledge the fact that Region II has a significantly greater number of units than the other regions.



Comment: S p. 23, 4.A: For the sites which are not BHA managed, it would help to say what the management company is (that was done for Old Colony Phase I), and it would also help to highlight which sites are "mixed finance", i.e., where not all units may be public housing, as well as how residents/advocates can get information to be sure if they are in public housing units or not at those sites and how to easily access procedures that are unique to those sites (lease, grievance procedure, ACOP, arranging for file checks, etc.)

Response: The BHA will consider adding information about site management in the Plan but will try to include additional information on the new website. Owners and managers of all mixed finance sites are responsible for providing occupancy and other related information to their residents. When residents believe they are not getting sufficient information they can contact the BHA as administrator of subsidy and we will intercede on their behalf.

Comment: S p. 27, 4.C: Would add to this the Memorandum of Agreement for Tenant Participation at Mixed Finance Sites, as well as the Bylaws for the Resident Advisory Board.

Response: BHA will consider adding these at this place in the

Plan. These can be made available in the Planning library.

Comment: PR PHAS (Public Housing Assessment System), p. 1: BHA lost high performing score, and this is not a good score. Need to get the report (John subsequently provided it), find out why scores were low and what BHA is planning to do. Ronald noted that work that's done by maintenance is often shoddy, and need to have flexibility in job classifications. William mentioned that resident custodians often can do very little work at the site other than change light bulbs.

Response: As was noted above, the most recent PHAS score is based on a new assessment system. If the old system had been in place for the year ending 3-31-11 the BHA would have received a score of 86. BHA occupancy for the federal portfolio has improved from 94.7% to 97.1% with the completion of several projects that required extensive relocation.

The BHA has a quality control procedure in place that ensures that a percentage of completed work orders are reviewed for workmanship. The BHA is subject to a number of collective bargaining agreements that define the work that can be done by various trades, resident custodians and laborers. The resident custodians are

responsible for a wide variety of non-trades tasks at their assigned developments.

Comment: PR Rent Collection, etc. (pp. 12-13): Mac noted that that as drafted, you can't tell if BHA is meeting its performance goal. There was discussion that BHA should not evict people over "chump change", and that it would be good to know what the standard practice is on out-of-court manager agreements (for example, if the tenant owes less than \$1,000, this is the first time, and is offering to pay back within 12 months, can that be done without going to court?) Similarly, there are questions about what Leased Housing does or should do when owners send eviction notices, and when this should trigger termination versus warning the tenant of possible consequences and just letting the court resolve it. MBHP practice on this is different from BHA's. Mention was made of useful assistance from a leasing officer, who advised a participant who was having problems with paying rent because of owner non-repair to write a letter documenting the problems, and how BHA might treat that as "good cause".

Response: The BHA is reviewing its rent collection procedures. This may also include a review of performance goals to be in accord with the new HUD MASS indicator. The

BHA currently makes a practice of entering into management and/or court agreements for the payment of rent owed.

Comment: PR Work Orders: Some noted experience with work orders taking a long time to be completed (2 years later).

Response: The BHA regularly reviews work order completion times.

Comment: PR Non-Smoking Policy: On Mac's point about knowing what's happening with enforcement, there were questions about whether LTOs were involved in helping to designate what outside areas could be used, as well as what the experience so far has been with reasonable accommodation requests and what the procedure is.

Response: Multiple meetings with residents were held at all developments before implementation of the policy. Residents were involved in the designation of outdoor smoking areas where they exist. Reasonable accommodation requests are handled on a case by case basis as with all RA requests.

Comment: Good evening. My name is Thomas [Boden]. I'm at the Maryellen McCormick development. Basically I have no complaints with Boston Housing. I basically came here this evening in regards to an

ongoing problem with following through since last July of 2012 and the problem is this... Oh, should I be directing this to him or to these people?

Okay, all right. So anyway, I'm following up on an ongoing problem because I'm a very disciplined person and a very consistent person. I don't give up. But as well, in following up with the problem, I've been ignored, and I hate to say it, by Boston Housing...by Boston Housing and McCormick, Maryellen McCormick development on Kent Street. I've called several times and spoke to several managers and given pawned-off answers. You know what a pawned-off answer is, anything to get you out of their sight. I'm not going to do it anymore.

I decided to come to this meeting tonight. I don't usually come to the meetings but I've never had problems. I decided to come to this meeting tonight because I was deciding whether or not – I was at the point where I was going to go to the mayor, Mayor Menino. I wanted to give Boston Housing one last chance and I'm going to raise hell with Mayor Menino. And I do what I say and I say what I do. So, what I'm getting at, which I'll explain to you: Boston Housing got a \$13 million grant – I could be wrong on this – but got a grant and they used it to repair the roofs. So beginning last September until July, they worked day after day, jack

hammering on the booth, repairing the roofs at the Maryellen McCormick, putting new rooftops – not roof [floors] – rooftops, to eliminate the wind factor and drains. Every day drilling with jacks and hammers. Now, the first company did not work out, it went bankrupt. So they had to get another company to finish the job, so we waited a few more months. And then when they finished the job, the second company, in August when they were done (finally), it looked nice, it was done, but it didn't take care of the roof, the problems with the roof, which have been an ongoing problem for years. I never had leaks in my apartment. I live on the top floor. I got my first leak in August in the kitchen. I got my second leak two weeks later in the living room. I got my third leak later – about three or four weeks later – in the bedroom. One leak in each room doesn't sound like a lot, but it is.

At this point, every day, the leaks increase because the roof needs to be fixed. The gravel torn up, and a new roof put down with tack. And they don't seem to want to do this, and they got money granted for this to fix the roofs, besides... And the thing is, at this point, I am running out of places to keep my bed. I really am. And I'm going to cut this short so people can speak but the thing is, something has to be done with it or I'm going to take it to

[inaudible]. I'm just saying. I'm just saying. They're giving me no alternative. They ignore me. They give me pawn-off answers. "Oh, we're going to have someone look at it." And it's never done.

Actually, it is good to do it in the wintertime. You know why? Because it don't expand. The [inaudible] expanded. I'm a contractor from years ago. I know what I'm saying. Thank you very much. That's my problem. [Several applaud.] I'm running out of places to sleep!

Response: If you will give me your address and unit number and a phone number where I can get in touch with you... I'll speak to the management first thing in the morning. There will be – I know they're working on the roofs. There's more work to be done but they don't do roofing – it's really not good to do it in the wintertime, so we have something out for bid and it'll start again right in the spring. So there are a couple more phases of that to be done.

Comment: Good evening everyone. My name is Lesley [Hornsby] [inaudible, speaking softly]. I just have a question that I was wondering about ...24-hour access but we don't have that at Heritage in East Boston. It's better for me to be able to get in and out of the laundry when I can including at

night. And also along the same lines as the laundry, I know that some of the facilities have – you have the [card] for your washer and dryer and if you're using the dryer, you usually get about I think it's 63 minutes. Some facilities have it where if you – after the 60 or so minutes are over – you kind of like reach in and realize you need a little bit more time, you get to [insert] your card and it will take about 10 or so more minutes, but the machines have to be programmed for that. I asked the management there but they said it was a BHA issue. I was going to write to Boston Housing but I got the letter saying you were going to meet so I thought I'd come on down and see what was going on...see if I could raise the issue.

And when I was listening to the RABs, I was wondering if there was one there at [Heritage House] and if I could find out about who they are and...[inaudible].

Response: The Boston Housing Authority has a contract with a company to provide the laundry rooms. They do sort of establish whether it's cards and how much they'll put on, etc. So, we could talk about some of those kind of things, but I'll also look into the access issue for you.

Comment: Now, I don't necessarily have a problem per

se, but what I wanted to speak about, I wanted to let everybody know that if you do have a problem, if you do have a problem, a legitimate problem, you can go to whoever it is that you elected for your RAB and they could bring it to the RAB. They're there to help because I did have problems until I got involved with the RAB. They do help.

I also wanted to say that I've learned an awful lot since I've been on the RAB and that everybody in Boston Housing is not our enemies. There's people that you can go to and that you can talk to that can help you with your issues, especially if it is a housing problem. Mine is simply this: Since I am around the policies and procedures, I know that they don't have a lot of money to do a lot of things that we would like to do or to have done because of the budget cuts. I wanted to say that. But at the same time, I know that throughout our developments – I'm not speaking for Charlestown right now, I'm trying to speak for all of us – throughout our developments, we have problems with our playgrounds, real bad problems with our playgrounds. They are in dire need of repairs. This is something that I wanted to bring up, you know, because my heart goes out for the children. Do you understand what I'm saying? Like I said, I'm not speaking for Charlestown but for all of them, I would like for

them to have a safe place to go and play. And I know times are hard and I know that money is tight, but I do think and I really do believe that our children's safety should be right up there. That's just about all I wanted to say.

I want to thank you for even allowing me to come back up here again, but that's something that I needed to just throw out there. Go to your RAB, the person that you chose to be on the RAB. Go to that person with your concerns. Don't get mad and storm the offices. Go to your RAB person first and see if they can help you. Thank you.

Is it at all possible that I could leave here knowing that they would at least think about kids playground? I know – I know it's asking a lot, but if you could just see the look at them, you would see what I'm saying.

Check out Charlestown.

I'd rather not have any than to have them the way they are.

Response: So we've taken a bunch out of Charlestown, some of those little tot-lots. But I will – I'll – I'll talk to – I'll get some information to Wilma and the supervisors in the morning and ask them to go around and survey all of those and make sure that if there's any hazards that they get rid of them. There's no question that they have to do that.

That's absolutely – the question of them building new ones, that becomes more difficult, but we definitely have to repair or remove any hazards.

Nobody wants anybody to get hurt so no, if there are some playgrounds out there that have dangerous equipment on them, then we need to get rid of it and take care of it.

Comment: Hi everyone. My problem is, I don't know what to do because my neighbor she's [inaudible phrase]. ...since three or four years before that, the [inaudible phrase]. [Inaudible] midnight, 1:00 AM, 2:00 AM, she keep dragging things, banging and making a lot of noise. Was [inaudible phrase] was last year when they come – the manager come [inaudible phrase] [for eviction]. [Inaudible phrase] and then to write [them] down [inaudible phrase]. I keep sending letters there. One day I was going out and then she saw me. [Inaudible phrase.] "Yeah, I know you [inaudible] for me! Blah, blah, blah." I will talk to the manager, there is [inaudible phrase] because [inaudible phrase]. [Inaudible] at 1:00 AM, 2:00 AM and then [inaudible phrase]. But she [explained] [inaudible phrase]. ...even the manager, even the [police]. When you call 911 sometimes, [inaudible phrase]. [A couple of days ago, I call again...] I

spoke to someone on the phone [named George]. [Inaudible phrase] and we call. [Inaudible phrase.]

My point is: Why the manager lose control [and they know nothing about you]. [Inaudible phrase] the kids are playing [inaudible phrase] 9:00 AM, 8:00 AM. But for her, all day, all night. She knows. She's [inaudible phrase]. I don't know what to do.

And then my second point is, they send a letter for [no smoking]. Everybody knows cigarettes smoker bad for your health [every day]. [Inaudible phrase] flyers or inaudible phrase]. Smokers supposed to smoke outside. How come the Boston Housing is wasting money to [build inaudible phrase]? How come [smokers] can't smoke inside?

Response: The individual lease enforcement question has been referred to management. BHA's non-smoking policy was implemented after significant consultation with residents.

Comment: Good morning. My name is Ronald Johnson. I am on the RAB, but I'm just speaking publicly. I'm not representing the RAB.

I just had some questions to ask for Boston Housing to see what they can do about certain things. My first issue was about the video and surveillance. We understand the procedures

going through about the video standards in surveillance and we're supposed to be going through Boston Housing Police. They're supposed to be observing the surveillances. There are certain buildings that I've heard from other people other than my own site that the surveillances aren't going to be any good unless they properly install these cameras.

Then it's the matter where there are doors broken, secure doors that most of the facilities have, the sites have. They're being broken and nobody is watching the surveillance camera on the doors. In order for them to watch it and see who's breaking them, then they know who's doing it and then the doors can be repaired. I'm just asking if there's a way we can do something about installing the cameras right. Can we have them at least surveillance them or look over the surveillance tapes every three months or every two months? They should be on [inaudible].

The second thing is the smoking thing. There were surveys put out to each individual site and the survey was really like if you were in college and you could do the SATs with trick questions. The things that were worded – I'm a smoker. I've been living in Boston Housing for almost eight years and there are other people that smoke that have been there longer than me. The whole thing is, there are

certain sites that smoke can pass through the buildings like the condo settings, but in the brick buildings, high-risers and stuff like that, there's no way it does. It can't pass from one apartment to another because apartments are not connected except for maybe one wall. But most of the time, the problem is in the stairways and the hallways – common areas and not the unit's fault. It's not passing from one door to another. It's impossible.

I can clear that up because I had a fire underneath me and smoke, the same as smoking a cigarette, they say that it can rise through the walls, the pipes and stuff like that. I never had smoke damage and it was a bad fire in my building. I never got smoke damage. So, there's one issue there, that trick question about smoking. When you come out your door and you smell it from the hallways and the stairwells, that's what the problem is – people smoking in common areas where they shouldn't be smoking in elevators, stairwells and hallways. What can we do about the people that have already been living there and smoking? How are they going to be accommodated – I know they said something about reasonable accommodation. I don't think it was fairly just how they did the survey on cigarette smoking and they're saying nicotine. If that was the case, if anybody has tea and everything and you're allergic to tea, one

person is going to complain about tea so we can't have it at the [place]?

Do you see what I'm saying? It's not a binding statement that they made. That's the way I feel because second-hand smoke and third-hand smoke is just a saying that it could be. The number one cause of asthma is dust, not smoke. So, that's all I have to say. Thank you.

Response: The video surveillance system is in place in a number of developments, but not all. Access to tapes is controlled by the BHA police department.

The BHA non-smoking policy was put in place to provide more healthy housing for BHA residents. Second-hand smoke will travel from unit to unit in multi-family buildings.

Comment: During the past few years, BHA has been the beneficiary of federal stimulus funding, as well as additional capital funds stemming from use of the Capital Fund Financing Program (CFFP), which has allowed BHA to tackle much needed deferred work. However, most of this work has now been completed, and given current state and federal budget climates, we are returning to an era of underfunding and difficult choices. Congress has discontinued HOPE VI funding, and provided authorization but

no funding for HUD's Rental Assistance Demonstration (RAD). As such, it appears that RAD will not be a program which will work for Massachusetts housing authorities given the high cost of housing operation and rehabilitation here. While the conversion of many of the public housing units at Lower Mills and Heritage to project-based Section 8 assistance means that there should be long-term financial stabilization there, it is not clear that HUD or Congress would permit a similar strategy for other underfunded elderly/disabled developments. Current budget developments do not bode well: it appears that HUD's promise about temporary use of reserves to cover shortfalls in operating subsidy, with subsequent restoration, is unlikely to be fulfilled. This will leave BHA and similarly situated PHAs even further shortchanged at a time when federal "fiscal cliff" discussions mean all discretionary domestic spending is vulnerable.

Two negative reports that came out since the last PHA Plan raise concerns. BHA got a very low Public Housing Assessment System (PHAS) score, and was rated as "substandard" in the Management component. This triggers a Corrective Action Plan (see further discussion under the Five-Year Plan Progress Report). BHA also

got negative audit findings for reconciling expenditures and meeting Section 3 employment goals (see further discussion under the Annual Plan). BHA indicates, in its Progress Report, that it has improved its occupancy rate. It's not clear how much of this is the product of the completion of rehabilitation projects, meaning that more units can return to the normal assignment process (as opposed to being set aside for temporary relocation), and how much the result of reformed practices which should improve long-term performance. Hopefully a FY 2012 PHAS report will show marked improvement. Over the next year we will have to see if BHA's use of the "one offer" system, removing applicants/transferees from waiting lists who do not take the only offer, works. It may be wise for BHA to institute measures to avoid overwhelming the appeals process with cases that could be quickly resolved otherwise. Residents who are in apartments too small for their family size, and who have to wait years while children of opposite gender, or family members of different generations, share a bedroom, have a legitimate grievance – but BHA also cannot improve or maintain its vacancy rate if it only addresses transfer needs. Whether the 1-out-of-8 ratio works or is appropriate will need to be revisited over time.

On specific policy issues, see further comments below.

Response: As stated in an earlier response the BHA's current federal occupancy rate is 97.1% which is consistent with its occupancy level over the past several years. This improvement is based primarily on the completion of projects that required significant relocation.

Other factors in the success in increasing the occupancy rates has been a combination of policy changes as well as increased number of applicants placed into screening adding the number of potential qualified clients in order to meet the high demand of vacancies which were a direct result of regular unit turnover as well as units coming back on line after the completion of the various modernizations jobs and required resident relocations due to the Hope VI and mix finance conversions during the past few years. HUD changed its score systems during a timeframe the BHA was under renovation and units just returning on-line for re-occupancy. Time will show the results of how effective the implemented changes have been or if further policy changes will be required to meet HUD's established assessment scores.

Comment: PR p.1 This mentions a Public Housing Assessment System (PHAS)

score of 74 in April 2012. BHA has now shared more information about this, including the PHAS report, and it raises more concerns than it answers (both on the BHA and HUD end).

Under the report, BHA is listed as "Substandard Management", receiving 14 out of 25 possible points in the Management category. This means that BHA is required to submit a Corrective Action Plan to HUD in the area of management. Scoring in Physical also shows poor performance, with 27 out of 40 points. (BHA did get full points on Capital Fund and 23 out of 25 points on Financial.) The report included a development-by-development break out of how the Management component of the score was reached. Seven developments scored 10 or fewer points: Charlestown and Groveland had 5, Heritage 6, Malone 8, West Newton 9, and Washington-Beech and Old Colony 10. On the other hand, two developments (Ausonia and Bellflower) had perfect scores, and 5 other sites had scores of 20 or higher (mostly in the elderly/disabled portfolio). The low scores can be attributed to both lack of full occupancy and high ratios of outstanding rent to the overall rent roll.

HUD has not yet finalized its PHAS rule, and is using interim measures. While past measures on resident

satisfaction have been withdrawn as "too subjective", HUD has not yet established other important measures on key management functions, and has limited this to easily tracked ratios. Both resident advocates and housing authorities have been critical of HUD's approach, and hope that final measurements can provide a better means to evaluate real performance. It is not clear whether numbers here were thrown off by factors that should have been considered by HUD, such as redevelopment at Washington Beech and Old Colony, or artificially high vacancy rates needed to do capital work (such as by setting aside "hotel" units for residents to cycle through temporarily while unit work was done).

That being said, BHA must take serious action in response to this PHAS report. BHA was a high-performing PHA on the public housing side, and remains one on the Section 8 side, with a perfect Section 8 Management Assessment Program (SEMAP) score. As noted in the Progress Report, BHA has gotten a wake-up call on occupancy, and is improving performance. Solid and sustained performance is critical both for BHA to deliver needed housing to at-risk families and individuals and for existing residents to not languish in untenable living situations. We understand that last components of a PHAS

report for 2012 are likely to be completed by HUD in 2012. BHA should share with the RAB and LTOs the results of that report. In addition, BHA should provide data by site, and discuss any specific steps it is taking site by site to remedy performance deficiencies.

Response: The new assessment system incorporated new performance standards that exceed average performance for both occupancy and rent collection in the affordable housing (not just public housing) industry. Despite the changed score, BHA performance has not changed significantly over the past several years.

Comment: PR p. 12: As noted above, BHA should be commended for improving its occupancy rate. It would be helpful to describe how this has been done, and what the goals will be for the remainder of 5-year plan. It would also help to collect and share data on how this is going at each site, and if there are shortfalls, identify the barriers and corrective action.

Response: Site specific information is available.

The BHA will keep track of its progress and will continue to work toward meeting the set goals in addition to ensuring that we do meet our mission of providing housing to those in most dire need for affordable

housing. As you are aware, most clients we serve require additional time in order to obtain their required verification due to the current stressful and challenging situations. The BHA will always keep this in mind which adds additional challenges to meet the HUD establish assessment score system which does not take this into consideration.

Comment: PR pp. 12-13: Rent Collection: The information in the Progress Report doesn't permit a reader or the RAB to know if BHA has achieved the "no more than 10% of the rent roll outstanding in any year" goal. BHA should translate the information so that this can be tracked. Poor performance in this area was one of the factors in the low PHAS score.

Response: The BHA's rent collection performance is virtually unchanged for the past decade. That said, the BHA is currently reviewing rent collection procedures to identify inefficiencies and obstacles to better performance.

Comment: PR p. 13: Goal of Generating More Management-Initiated Work Orders: It would be helpful to know where the 70% figure (for work orders generated by management, as opposed to only 30% generated by residents) came from, as this may not be realistic. Is this based on some kind of industry standard/experience, and is it of

housing of comparable type/age? If BHA only does living unit inspections (LUIs) once a year, it is likely that there will be a significant number of other requests for repairs during the course of the year. It's positive that the percentage of management-initiated work orders increased (from 50% to 53%).

Response: The 70% figure is aspirational and emphasizes management knowledge and planning to address the maintenance needs of buildings, ground and systems as well as dwelling units. We expect to see continued progress toward that percentage.

Comment: PR p. 13: Site Based Budgeting: One problem with site-based asset management may be that functions like LEP—for example, a particularly linguistically diverse site may have additional demands for translation needs for community meetings, elections of resident organizations, as well as private conferences--get billed back to a site. This could act as a perverse incentive to say that more linguistically diverse communities are more expensive, and to penalize addressing of other needs with a limited budget. It should be possible to centrally bill any civil rights compliance costs. If, on the other hand, this is an myth,

and is not the way the budgeting is done, BHA should say so.

Response: Site-based costs must be assessed to the site on which they are generated. This does not cause the BHA to fail to address LEP, RA or civil rights issues.

Comment: pp. 13-14: Recycling and Nonsmoking Policies/Initiatives: There should be more detail on how the implementation of the recycling program and the non-smoking policy are going. As noted by RAB Reading Committee members, it's important to get more information about what's happened with reasonable accommodation waivers (and the process), as well as being sure that LTOs are involved in designating acceptable smoking areas outside but near developments.

Response: Reasonable Accommodation requests related to the non-smoking policy are reviewed on a case by case basis. Site based recycling is still being implemented, but meetings with residents have been held at a number of developments where some recycling is underway.

Comment: S Income Tiering: For public housing, at p. 6, 1.A.(4)c.4, this is referenced, as has been permitted in some HOPE VI and mixed finance



developments to insure a range of incomes within the eligible range. BHA may want to revise this to include Choice Neighborhoods, to the extent permissible.

Response: The BHA will consider this as applicable.

### **Planning and Real Estate Development:**

Comment: AP p. 3, 7.0.a: HUD issued recent new guidance on Replacement Housing Finance (RHF) funds, and check to be sure BHA is following that, as well as further details about how funds will be used.

Response: BHA has received the new guidance from HUD and is preparing the requisite HUD submittals. At this time we are planning to allocate any un-planned Replacement Housing Factor Funding to Old Colony Phase 3.

Comment: AP Groveland: This indicates, at p. 6, 7.0.b, that the Groveland demolition is planned, but not yet submitted, and that it has an anticipated start date of Fall 2012. This needs to be revised, since it is now the Fall of 2012. The RAB and GBLS should review the plan prior to submission. Is there an issue here with needing to get Monitoring

Committee approval, and the lack of a Monitoring Committee (see Governance comments above). BHA has explained in prior years why this is needed. It may be that the bad PHAs numbers at Groveland stem in part from the fire-damaged units here.

Would like to review plan prior to submission. (BHA has explained in prior years why needed.) Other demolition/disposition activity— Old Colony Phases I and II, Martha Eliot Health Center parcel, vacant parcel at Highland Street—were part of last year's submission.

Response: BHA submitted the demolition application in May, 2012 for 16 fire-damaged units at Groveland consistent with prior Agency Plans as well as meetings with the site and the Resident Advisory Board. We are happy to share the plan. BHA received HUD's approval for the demolition application on December 19, 2012.

Comment: AP p. 20: In 9.1, I believe the 5-year Sustainability Plan is new, and it would be helpful to get a fuller description of this (perhaps it's elsewhere in the Annual Plan materials)— timeline for developing this? Opportunity for RAB and resident input? This also mentions review/revision of the priority/preferences, but I don't think this is part of this year's plan (only clarification)—was

this just meant to refer to what was done in the fall of 2011?

Response: An internal team of BHA planning, operations, energy management, resident empowerment, and capital staff are developing a draft Strategic Sustainability Plan that should be available to share with the RAB, REC and LTOs in early 2013. The plan will not be final at that point, but a proposed draft that can be revised with resident and advocate feedback.

Comment: S p. 6, 1.A.(4)c.4: BHA may want to revise the income tiering discussion here to include Choice Neighborhoods, to the extent it is permissible there.

Response: The responses are accurate for now; as the BHA moves forward with its Choice Neighborhoods Initiative we will update this section as needed.

Comment: S p. 42: Question whether there really is an Asset Management Plan. Mac pointed out that the Approach to Preservation document is that, and it may be that the Sustainability Plan is that, but hard to say since the RAB/Residents/advocates haven't seen that document, and don't know what it's intended to do, opportunity to review & comment, etc.

Response: The Approach to Preservation, which also serves

as the BHA's 5-Year Plan to HUD, is currently the closest document to an Asset Management Plan at the BHA. The Strategic Sustainability Plan, when available, will also serve as an Asset Management tool and document. BHA will evaluate when and how to incorporate the Strategic Sustainability Plan into the Approach to Preservation in the future.

Comment: PR p.1: This mentions a Strategic Sustainability Plan. This has not previously been discussed with the RAB, REC, LTOs, and advocates. The plan is apparently in preliminary form. BHA has agreed that once the plan is further developed, it will provide a draft copy of this, and provide opportunity for resident review and comment.

Response: An internal team of BHA planning, operations, energy management, resident empowerment, and capital staff are developing a draft Strategic Sustainability Plan that should be available to share with the RAB, REC and LTOs in early 2013. The plan will not be final at that point, but a proposed draft that can be revised with resident and advocate feedback.

Comment: PR p. 14: Redevelopment of Lower Mills and Heritage: It would be helpful to outline what the major renovations will be at the Lower

Mills and Heritage sites. Is there any thought of proposing something similar in the future for any other BHA elderly/disabled sites, or does this not seem feasible given current federal funding/policy?

Response: The following is a summary of the renovations undertaken and Lower Mills and Heritage. The BHA will continue to evaluate ACC to PBV conversion as a preservation tool, but no projects are currently planned.

#### Lower Mills Renovations:

The exterior envelope repairs include selective replacement of through wall flashing and masonry re-pointing and addition of insulation at perimeter metal-framed wall cavity. The existing balconies will be re-finished and all windows and vertical joints will be caulked and sealed.

Energy conservation features at apartments and common areas include weather stripping of doors and windows, replacement of existing plumbing fixtures with low flow toilets and aerators for sinks, tubs, showers and lavatories to reduce water consumption; and replacement of electric radiators with Hydronic radiators; and replacement of lighting fixtures.

Energy conservation features at building MEP systems will include replacement of electric

heat with new gas fired boilers, conversion of outside makeup air unit from electric to gas, and installation of cogeneration unit.

All common areas will be upgraded with new finishes, paint and ceilings. The existing laundry facility and trash room will receive improved ventilation.

Units will receive new door hardware as well as GFCI outlets within the bathrooms. Some kitchens and bathrooms will be renovated with new finishes. All ducts and registers will be cleaned.

The building will also receive a new fire alarm system and exterior site work will include repaving selected areas of the sidewalks and driveways as well as upgrading the exterior lounge and garden areas.

#### Heritage Renovations:

The exterior envelopes of Buildings A, B and C will be rebuilt to resolve masonry and energy problems, including the removal of all abandoned air conditioner through wall sleeves, application of a coating on selected elevations, and addition of insulation at perimeter metal-framed wall, and addition of another layer of insulation at exterior side of the perimeter metal-framed wall. The existing balconies will be re-finished and all windows and vertical joints will be caulked

and sealed. Storefront entries and windows will also be replaced.

The low rise buildings will receive miscellaneous masonry repairs and new windows and the addition of insulation at perimeter metal-framed wall. Existing balconies will be repaired or rebuilt in many locations. New exterior sheds may be built to accommodate new mechanical equipment.

Energy conservation features at all apartments will include weather stripping of doors and windows, and replacement of existing plumbing fixtures with low flow toilets and aerators for sinks, tubs, showers and lavatories to reduce water consumption, and replacement of lighting fixtures. At Buildings A, B, and C, electric radiators will be replaced with Hydronic radiators.

Energy conservation features at MEP systems at Buildings A, B, and C will include replacement of electric heat with new gas fired boilers, conversion of outside makeup air unit from electric to gas, and installation of cogeneration units. Units at Clippership will have improved bath, kitchen, and laundry ventilation.

Common areas will be refinished with new unit entry doors and hardware. Acoustical ceiling, lighting and flooring will be updated. Some

unit kitchens and bathrooms will be upgraded and bathrooms fitted with GFCI outlets.

All buildings will receive a new smoke alarm system, repair of the existing intercom system and the entire site will be repaired to address accessibility issues. Sprinklers will be added in units in Buildings A, B, and C. Four units will be converted to meet accessibility requirements of MAAB in Building B.

Comment: PR pp. 14-15: Old Colony and Whittier Street: It would be helpful for BHA to lay out any thinking about redevelopment of the balance of the Old Colony site; this is a real challenge given the discontinuance of HOPE VI/ARRA. BHA may also want to include a new box here about Choice Neighborhoods, since that's being discussed for Whittier Street and BHA has obtained a Planning Grant.

Response: The BHA will be planning for Phase 3 at Old Colony during 2013, including soliciting a developer partner for this phase. There are currently no large seed grant opportunities for this phase, but the BHA continues to evaluate a financial strategy to complete Phase 3.

We will continue to report in the Agency Plan on our Choice Neighborhoods Initiative as it evolves.

Comment: PR p. 15: Redevelopment of State Public Housing: Since the Progress Report relates to BHA's federal programs, it's questionable whether Orient Heights or any other state-assisted development should appear here, unless BHA is thinking of seeking federal funds for this (which would be possible through Choice Neighborhoods). Otherwise, while it is important for BHA to regularly report to its residents on its state portfolio and get resident input, and for BHA to address all of its portfolio in its Approach to Preservation, that would be separate from the federal PHA Plan.

Response: Agreed—we will revise accordingly.

Comment: AP Whittier Street: This references, at p. 2, 7.0.a, that BHA has been awarded a Choice Neighborhoods planning grant for redevelopment of the Whittier Street public housing development. This is in the early stages, and until BHA develops a full plan, it's difficult to assess this. We understand that BHA will be coming to the RAB and residents of Whittier Street with a more fully fleshed out proposal in 2013.

Should seek information on Whittier Street application, and find out more about when full submission due, number of public housing units to be

retained, and other housing types.

Response: The Choice Neighborhoods Planning Grant application is available in the Real Estate Development Department and will be available under the BHA's new web site in early 2013. As we move forward to develop a Transformation Plan at Whittier, Whittier residents and the newly formed Whittier Task Force will all be actively involved in planning efforts. We will also consult neighboring development residents, the RAB, and the REC, as well as the broader Lower Roxbury community.

### **Public Safety:**

Comment: S p. 38: Police often aren't filing police reports (Boston Police when they come in response to legitimate incidents reported). This came up at a meeting with Steve Melia. Should always require that a 1.1. form be completed. David mentioned an incident where he reported a violent assault on a next-door neighbor, and the police never filed it away. In addition, there should be some kind of booklet/guidance for residents as to what to do in cases of emergency, and what to expect? [For example, getting a copy of the report.] This can

come back later on the resident if there is no documentation to verify that in fact the police were at the development.

Response: The BHA Police operate under the same system as the Boston Police Department. The incident report begins when the caller dials 911. Each call is automatically assigned a "case" number. This number is unique to each call and follows the call throughout the system, from the call taker to the dispatcher to the responding officers and to the investigating detectives if the incident requires further investigation.

The Boston Police system also allows the responding officers the discretion of giving a police report an administrative clearance code that does not require the officer to file a formal police report if the incident is minor in nature or can be resolved on site.

Because each call receives a unique identifying number {case / report number }, there is always a record of the call and the response either through a formal report or the administrative dispatch record.

The administrative / dispatch record shows the date and time the call was received; the officers who were assigned to respond; the dispatch, arrival and clearance time; the caller information; a brief description

of the call type; and a brief synopsis of what transpired on site. People often assume that since there is no formal police report that no record exists for the call and that is not true. Anyone seeking a copy of a police report can obtain one at their BPD District station. All BHA Police reports are the same as Boston Police reports and are on file with the Boston Police Department.