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U.S. Department of Housing and Urban Development

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July 16, 2010

Ms. Judy Gilleland
City Manager, City of Middletown
Executive Director, Middletown Public Housing Agency
One Donham Plaza
Middletown, OH 45042

Dear Ms. Gilleland:

The City of Middletown, acting as the board of commissioners for the Middletown Metropolitan Housing Authority, asked for an analysis of the impact of the Housing Choice Voucher (HCV) Program on City Services and Budgets. The City administration prepared a report and submitted it to the Board in June 2010 and made recommendations to alter the administration of the HCV program in Middletown, many of which the Board adopted at its June 29, 2010 meeting.

The Board has the responsibility of making sound decisions regarding the administration of the HCV program that ultimately affect the participants in the program and all residents in the City of Middletown. In reviewing the report, U.S. Department of Housing and Urban Development (HUD) staff identified misrepresentations of HUD's position, inaccurate data and flawed analysis. Our letter is intended to clarify HUD's position and provide you with accurate information and analysis so that the Board may make informed decisions regarding the HCV program administration in Middletown.

We also want to be clear at the outset about what we support:

- Paying an accurate market rent,
- Enforcing program housing quality standards,
- Restricting the program to compliant landlords and participants, and
- Enhancing choice and opportunity for participants to live in low poverty areas

Assisted Housing Stock

The report identifies 3,549 units of subsidized housing in the City of Middletown. Not all of the units identified in the report are subsidized in the same manner. HUD considers a unit

subsidized when the tenant pays a portion of their income for rent and the Federal government pays the difference between the tenant portion and the market rent. These include the HCV program, public housing, HUD assisted multifamily properties and HUD homeless programs. Low Income Housing Tax Credit (LIHTC) property tenants pay a rent that is based on rents affordable to residents at or below sixty percent of area median income and the tenants pay that entire rent. Rents for families would typically cost the renter at or above \$700 – as opposed to the 30% of income rents that are being paid by renters under the voucher program that would be about \$100 to \$200 for the average renter. The maximum rent for a two bedroom tax credit unit is \$939. Tenants at Lakota Point Townhomes pay a range of rents from \$359 up to \$937 for a three bedroom unit, based on their income eligibility and household size.

LIHTC properties are also housing voucher tenants and therefore the report double counts these units as both tax credit and voucher units. Data from the report suggests that several LIHTC properties have voucher tenants. Based on our records the amount of subsidized housing in Middletown is as follows:

Program	Number	Comments
Housing Choice Vouchers:	1,662	1,662 are authorized and 1449 currently in use
Butler MHA Units	593	
HUD Project Based Units	384	Listed as privately owned Section 202/811
HOPE House	50	Emergency Shelter for Homeless
ODMH Transitional Living	66	HUD has no data
Total	2,755	

According to the Ohio Housing Finance Agency there are 719 LIHTC units in Middletown, 39 of which are associated with Dublin House, a HUD assisted project. The remaining 680 units should not be counted as subsidized as their income limits are different than the HCV program. At a minimum, voucher usage at these properties should be identified and removed to prevent double counting.

Strategic Public Policy (SPP) Study

The Strategic Public Policy Study focuses on the socio-economic impact of the HCV program, yet it only focuses on the single family portion of the program. According to HUD's usage reports from data entered by Middletown into HUD systems, only 54.2% of Middletown's program utilizes single family homes, i.e., about 775 homes. Yet, the study used 1,526 HCV single family homes in its analysis. In addition to overstating by almost 100% the number of single family homes on the Voucher program, 1,526 is also more than is leased for all types of units currently 1,449 vouchers.

Total Single Family Homes	14,541
HCV Single Family Homes	1,525
Other Rental Single Family Homes	1,446

The study also draws broad conclusion about the program referring to numerous studies, yet none of the studies are cited. HUD has conducted several studies of the voucher program and the data do not have the same conclusions as the SPP Report. The SPP report states the following:

- Various research studies indicate the Section 8 vouchers should not be utilized in areas that have housing values below 50% of the average City value.
- The overall condition of housing within a neighborhood can be a strong indicator of areas that are experiencing disinvestment and thus should not be used for Section 8 housing choice vouchers.
- Accelerated disinvestment can occur when the total percentage of Section 8 vouchers and other subsidized units represent over 10% in areas containing a mix of single family and multi-family housing and over 5% in predominantly single family neighborhoods.
- Utilizing Section 8 vouchers within severely distressed neighborhoods to artificially support obsolete housing that is beyond its useful life cycle causes redevelopment to be delayed and adds additional costs to the city.

The HUD studies do not draw these conclusions and the SPP Report does not cite any that do. Furthermore, the proper administration of the program through HQS inspections and accurate rent reasonableness determinations would ameliorate such negative effects. In fact, we are aware of no other rental units in Middletown that are regularly inspected by the City.

The SPP Report also attributes a cost to the Housing Choice Voucher program. The study states that since voucher households earn less than the average household that it costs the City \$489,559 in income taxes. However, if the voucher holders were to leave (as the City seems to desire) and pay no income tax at all, the City would actually lose \$318,335.

This and other parts of the administration's report seem to assume that poor families are only present because of vouchers, or that but for the vouchers they would not be living in Middletown. This is of course not the case, particularly since Middletown has a locality preference, meaning that essentially a family can only get a voucher if it is a resident of Middletown. The Voucher program is meeting the needs of Middletown citizens who happen to be poor, not increasing the population in Middletown that is poor. Half of the voucher participants are elderly or disabled. These families were poor before they had the assistance of vouchers and were Middletown citizens before given vouchers. Other than anecdotally, we have seen no evidence to the contrary and the report makes no direct assertion nor gives evidence to the contrary.

Cost of the Voucher Program

The University of Cincinnati (UC) study concluded that Section 8 is not a problem but some properties that have Section 8 subsidies are problems. The study indicates a large portion of residential calls for service are located near voucher addresses, but does not demonstrate that voucher properties and/or voucher residents are the problem. Even in the top 20 HCV properties for calls for service, only 34% of the units are voucher units. The SPP study concluded that 54% of all crimes are located within Section 8 concentration areas. The only conclusion that can be drawn from these studies is that HCV tenants are more likely to experience crime due to their location, not that the HCV program is the cause for crime in these areas. The report does not actually match participant names with actual perpetrators of crimes. The report seems to infer a connection but does not actually demonstrate one.

The study indicates an additional \$1,058,400 in costs out of the total police expenditures for 2009 or 9% of their budget. The UC study indicated that over 60% of the calls for service were to commercial properties yet 54% of the crime, according to the SPP study, is in voucher concentration areas. Even in the residential areas there are more non-assisted units in these neighborhoods than assisted and there is no evidence that HCV participants are the cause of the crime in these neighborhoods; putting a dollar figure attributable to the voucher program's impact on the police budget is illogical.

The City's analysis does not take into account the positive economic impact the program has for the City of Middletown, nor does it analyze the effect of decreasing subsidy to the community. The voucher program injects nearly \$900,000 into the Middletown economy on a monthly basis. This helps landlords pay property taxes and frees participant's income to spend on other goods and services in Middletown. The proposed reduction of voucher utilization in the City would allow \$7.2 million to flee the Middletown economy on an annual basis. While assertions about voucher-related costs to Middletown are based on questionable logic and false assumptions, if the City achieves its objective of lowering the number of vouchers by two thirds, the loss to Middletown in funds paid directly for Middletown properties is certain.

The City of Middletown claims to have a disproportionate share of housing choice vouchers compared to surrounding jurisdictions. The City does have a higher percentage of vouchers than many of its' neighbors, however, every jurisdiction's Consolidated Plan identifies a need for housing affordability and a decreased rent burden for low-income individuals and families. The demand for housing choice vouchers clearly outstrips supply. All housing agencies in Southwest Ohio maintain closed waiting list for their voucher programs. The city is to be commended for identifying a need and going after the resources to serve Middletown residents.

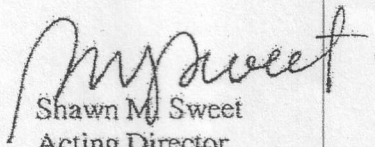
The housing and neighborhood conditions identified in the City's analysis are real. Blaming the voucher program for these conditions however, is, in the words of former HUD Secretary Dr. Robert C. Weaver referring to claims about the public housing program, "like blaming the doctor for the disease." The City has several tools available to address its obsolete housing stock and concentrations of poverty. A well administered housing choice voucher program in conjunction with a targeted Neighborhood Stabilization Program and Community

Development Block Grant funding can certainly help revitalize neighborhoods and help the City meet its long term goals. The Department has many resources to assist the City in meeting its goals and is available to work with City staff to develop and design programs that are consistent with HUD rules and regulations and in the best interest of the City.

We have included an attachment quoting specific statements from the report to City Council for which we have provided clarification and/or correction in order to ensure the Department's regulations are properly interpreted and that statements attributed to this office are corrected or put in full context.

Please contact either Ms. Nancy Petrunak, Public Housing Revitalization Specialist, on 216-522-4058 extension or me on extension 7131 you have any questions or concerns.

Sincerely,



Shawn M. Sweet
Acting Director
Cleveland Hub Office of Public Housing

Enclosure(s)

cc:

Middletown City Council

Attachment

Set forth below are direct quotes from the report along with HUD's clarification and/or correction:

SECTION 8 ANALYSIS REPORT: HUD's first point regarding reduction of vouchers was that they would not seriously consider a reduction of voucher levels while the City maintains a local preference for Middletown residents. Said another way, it's hard to argue that you want less vouchers when you specifically target giving new vouchers to people living in the City. HUD stated that the local preference for Middletown residents must be removed before any further discussion about reduction of vouchers would occur.

When we discussed the possibility of partial voucher transfers, HUD referred us to HUD Notice PIH 2007-06 (HA), issued on March 7, 2007. Although this Notice lists a 2009 expiration date, HUD still operates under this Notice. In Paragraph 3: Eligibility, the Notice states that "All transfers [of vouchers] must be total permanent divestitures of one PHA's HCV program to one or more receiving PHA's. The Department will not approve voluntary partial transfers unless there is a substantiated compelling reason. (Emphasis added) The transfer must be between PHA's within the same metropolitan area, within the same non-metropolitan county, or within the same state where HCV program administration is voluntarily shifted from a city or county PHA to its state PHA or from a state PHA to one or more of its county or city PHA's."

HUD's reliance upon a "substantiated compelling reason" started the staff process that lead to the creation of this report. If a substantiated compelling reason is required to transfer vouchers and HUD won't permit partial transfers while the City remains high in poverty, what else could be used as a compelling reason to gain HUD approval?

HUD RESPONSE: At no time did HUD officials make statements concerning reduction of vouchers relative to the City's local preference for Middletown residents. HUD's discussion with city staff centered upon deconcentrating poverty by expanding MPHA's jurisdictional boundaries from its current city limits (if legally permissible) to include all of Butler County, reconsidering local preferences, consideration of higher payment standards in non-impacted areas in Butler County and reviewing the rent reasonableness system to ensure rental rates are accurately measured. It was suggested that this be reviewed in consultation with the Butler Metropolitan Housing Authority ("BMHA"). MPHA currently administers the program in the City of Middletown and families are ported to BMHA should the families choose to move outside of the city but within Butler County. An expansion of MPHA's boundaries would end the current portability arrangement and result in BMHA and MPHA co-existing within the county. This arrangement exists with Parma MHA and Cuyahoga MHA and formerly existed with Hamilton and Cincinnati MHA.

HUD Notice 2007-6, "Process for Public Housing Agency Voluntary Transfers of Housing Choice Vouchers, Project-Based Vouchers and Project-Based Certificates" issued March 7, 2007 does spell out the process for the permanent transfer of a Housing Choice Voucher Program to another PHA. As noted in the report the transfer must be between PHA's within the same

metropolitan area, within the same non-metropolitan county, or within the same state where HCV program administration is voluntarily shifted. The Notice goes on to state that "The Department will not approve voluntary partial transfers unless there is a substantiated compelling reason". The Notice does not define substantiated compelling reason but in its limited use thus far, it has not been the intent to reduce the number of vouchers that serve a community's needy households.

Middletown should not act in anticipation that such a transfer request would be granted when the sole purpose is to reduce housing assistance to those in need in Middletown. Currently MPHA has around 1,500 families being served by the program as well as a lengthy waiting list. A partial or total transfer of the program to another PHA would not necessarily result in a reduction in the families served by the program but rather a change in administration of the program to another PHA.

SECTION 8 ANALYSIS REPORT: HUD's next point was that if we operated our program similar to the Parma program, we would keep all vouchers active, provide service to over 1600 low income families, be compliant with HUD program requirements, retain administrative income from the vouchers, execute the Master Plan objectives, and still achieve the reduction of vouchers within the City that we seek. Parma has 57 active vouchers within the City limits for 80,000 residents. HUD stated that until we utilize the regulations to reduce vouchers being used within the City, they would not seriously consider a reduction in voucher levels. Said another way, HUD stated that we must "help ourselves with all of the regulatory tools available, and then if you still have problems, come talk to us again."

HUD RESPONSE: HUD's discussion about Parma operating within a larger jurisdiction with the ability of its participants to lease throughout the County was not in the context of HUD agreeing that Middletown should seek to reduce voucher holders, but rather that poverty deconcentration might be furthered by broadening jurisdiction and choice. In addition, statements in the report seem to indicate that Parma is typical of city programs and is one of the only other city programs in the nation. Parma is not typical – it was created by a federal desegregation court order. Many hundreds of municipal housing agencies are in operation across the nation. Michigan, for example, is one state with predominantly municipal housing agencies, and most vouchers are used within the City's boundaries.

SECTION 8 ANALYSIS REPORT: Staff recommends reducing the payment standard to 90% of FMR within the City of Middletown and setting the payment standard at 100% outside of the City of Middletown.

HUD RESPONSE: MPHA's payment standards are currently set at 100% of the FMR. In accordance with 24 CFR 982.505 9(c) (3) when the payment standard amount is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. Movers and new admissions within the city would be effected

immediately; however, payment standard amounts for families under HAP contracts cannot be reduced until the second reexamination.

HUD does monitor rent burdens of families assisted by the program and can require a PHA to increase payment standard amounts within the basic range when 40% or more of families occupying a particular unit size pay more than 30% of monthly adjusted income as the family share. It may well be that one payment standard within Middletown is not appropriate particularly if it is reduced. A geographic payment standard for different parts of Middletown can be set to tailor it to the market areas of the City. But if the City is lowering the payment standard for the sole purpose of eliminating the ability of units to be leased in Middletown, as seems to be the case, this would be directly counter to the program's intent and HUD this will closely monitor rent burden and success rates and will direct the City to increase the payment standard if appropriate.

In addition, if use of vouchers outside Middletown is done through portability, then Middletown's payment standard is not used; the receiving PHA's payment standards are used. For example, if a Middletown participant ports to Warren County, Warren MHA's payment standard is used. If Middletown continues to administer its program only in the City and a Middletown participant ports to an area within Butler County then BMHA's payment standard is used. Middletown cannot set a payment standard for an area outside of which it does not execute HAP contracts. If Middletown chose to operate throughout Butler County, then it could set a payment standard for that area.

SECTION 8 ANALYSIS REPORT: *Under the MPHA Current Administrative Plan, Section XVII(d): The dwelling unit shall be in compliance with HUD lead based paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 USC 28001, and owner shall provide a certification that the dwelling is in accordance with such HUD regulations.*

Recommended Changes:

The current plan language does little to document compliance with HUD regulations and/or Ohio lead based paint law. From a compliance standpoint and a policy standpoint, MPHA should expand the requirements for lead based paint compliance. As discussed above, this issue impacts almost 19000 housing units in Middletown, occupied primarily by low income families. We document compliance with all of our other HUD programs, and we need do so here as well. MPHA will require that a lead based paint risk assessment be completed for any housing units constructed prior to 1978 before HQS inspections are scheduled. If lead based paint is discovered on assessment, the owner must abate each lead based paint surface before commencement of assistance. If the unit is already occupied, the abatement must be completed within 30 days of notification to the owner. If the owner does not complete the abatement, the unit is in violation of HQS standards until the reduction is complete and no HAP payments will be made until the abatement is complete and a passing lead based paint clearance is submitted to the PHA.

HUD RESPONSE: The Housing Choice Voucher Program is subject to the following subparts of 24 CFR Part 35: Subpart A, Disclosure; Subpart B, General Lead-Based Paint Requirements

and Definitions for All Programs; Subpart M, Tenant-Based Rental Assistance; and Subpart R, Methods and Standards for Performing Lead Hazard Evaluation and Reduction Activities. Lead based paint performance requirements are included as part of the Housing Quality Standards ("HQS") inspections and must be met before a unit can be assisted or continue to be assisted where the unit and family are subjected to these requirements.

MPHA is proposing to require a risk assessment for any housing unit constructed prior to 1978 before the HQS inspection. If lead based paint is discovered on assessment, the owner must abate each lead based paint surface before commencement of assistance.

Lead Based Paint
The changes to the HQS inspection process and HUD lead based paint requirements that MPHA is proposing to implement far exceed the requirements required by the regulations. HUD regulations exempt certain units from lead based paint requirements. Exempt units include units where a child under the age of six does not reside or is not expected to reside as well as efficiency units and Single Room Occupancy ("SRO") units. In addition, in the HCV program, risk assessments are only required where a child has been identified as having an environmental intervention blood lead level. To implement the changes that MPHA is proposing to require as part of HQS inspections would involve a variation to the HQS acceptability criteria and require HUD approval as provided in 24 CFR 982.401 (a) (4) (i).

Be advised that this office would not entertain such a proposal as it would severely restrict housing choice. Roughly 75% of rental occupied housing in Middletown would be impacted by such a change.

SECTION 8 ANALYSIS REPORT: *For units constructed prior to 1978, owners must complete and submit the MPHA Lead Paint Owner's Certification, Housing Choice Voucher Program as part of the Request for Tenancy Approval (RTA). The lead based paint inspector must be licensed by the State of Ohio, and failure to supply the inspectors credentials and the completed Certification will be considered an incomplete RTA for purposes of review. Staff recommends that the following Certification be adopted by MPHA as part of the Request for Tenancy Approval process to fully document lead based paint compliance.*

HUD RESPONSE: The form being proposed for use would incorporate standards that exceed HQS, as stated above, which this office will not consider. The referenced forms in the HUD Guidebook are only for units where a risk assessment is required, i.e. where a child is determined to have had an elevated blood lead level – not for all units.

SECTION 8 ANALYSIS REPORT: *While the City does not employ a rental registration ordinance to regulate rental units, having a City Building Inspector perform initial inspections is advantageous in three ways. First, the timing, paperwork and other problems being experienced with initial inspections would be alleviated by direct scheduling between Consoc and the City on these inspections. Second, the inspector is a certified lead based paint risk assessor by the State of Ohio and this serves as a quality control check that proper lead based paint inspections are being performed and paperwork is being turned in with the Request for Tenancy Approval for*

new units. Finally, the inspector is also trained on inspecting to the standards in the International Property Maintenance Code, the local property code. Under 24 CFR § 982.306(c)(6), the PHA may deny approval of an assisted tenancy when the owner has a history or practice of renting units that fail to meet State or local housing codes. Utilizing the City's code enforcement software, the inspector can run a report of prior violations by any owner or address to determine if such a history or practice exists. Where appropriate, documentation and reporting would be submitted to the program administrator for potential denial of the owner based on past practices.

HUD RESPONSE: MPHA is proposing to use the International Property Maintenance Code in conducting its HQS inspections. As noted above, this change to the inspection process would involve a variation to the HQS acceptability criteria and require HUD approval as provided in 24 CFR 982.401 (a) (4) (i).

A modification to MPHA's HQS inspections using portions of the International Property Maintenance Code was approved by this office in 2002. Any further modifications would require HUD approval.

SECTION 8 ANALYSIS REPORT: *Local Preferences [24 CFR 982.207; HCV p. 4-16]*

The PHA is permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

HUD RESPONSE: Changes to the occupancy policies and preferences will require a modification to the 2010 PHA Plan submitted to this office. MPHA may not adopt the modification until a meeting of the Board of Commissioners/City Council is held and the meeting at which the modification is adopted is open to the public. Additionally, the modifications cannot be implemented until notification of the modification is provided to HUD and approved by HUD in accordance with the review procedures provided in 24 CFR 903.23 .

SECTION 8 ANALYSIS REPORT: *The City has supported Hope House for years. We are utilizing HOME funds in 2010 to assist with \$80,000 in renovations for the new Women's Shelter on Girard. The shelter will be a transitional shelter for 3-6 months to allow victims of domestic violence the opportunity to safely get away from their abuser and to rebuild their lives. We have recommended a local preference for victims of domestic violence. We have also recommended a large reduction in vouchers operating within the City. If it would be appropriate, expanding the number of vouchers in the SRO program would use more of the City of Middletown vouchers in support of victims of domestic violence. It would also mean that fewer vouchers are being used as regular rentals throughout the City.*

HUD RESPONSE: The SRO Program is funded by HUD through the Office of Community and Planning Development. The ACC is separate and apart from the ACC for the Housing Choice Voucher Program. The subsidy is project based and has nothing to do with the Housing Choice Voucher Program. Vouchers are not used in SRO projects.