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## LAW ALERT

### HUD UPDATES RAD PROGRAM RULES

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On June 15, 2015, the U.S. Department of Housing and Urban Development updated and clarified the rules governing the Rental Assistance Demonstration ("RAD") program. The revised Final Implementation Notice (PIH-2012-32 (HA), REV-2) is available at: [http://portal.hud.gov/hudportal/documents/huddoc?id=PIHNotice\\_2012-32\\_062015.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=PIHNotice_2012-32_062015.pdf). Through RAD, HUD is converting public housing and certain other HUD-assisted properties to long-term, project-based Section 8 rental assistance, which enables housing authorities, developers and other owners to access private debt and Low Income Housing Tax Credit equity to rehabilitate existing properties or construct new units.

The revised Notice applies to all public housing projects presently seeking conversion of rental assistance under the RAD program (with possible exceptions for projects close to closing, at HUD's discretion.)

The Notice incorporates the increase in authorized RAD units from 60,000 to 185,000 as provided by the 2015 Appropriations Act. Even with this increase, HUD has indicated that demand from public housing authorities for RAD conversion authority continues to grow.

#### **Key Changes in the Public Housing/First Component include:**

**Selection Criteria.** Instead of the previous first-come, first-served policy, HUD now intends to implement a ranking system based on six "priority categories" (subject to a 30-day public comment period before implementation.)

#### **Greater Alignment with Tax Credit Deadlines and Streamlining of Submission Requirements.**

Early deadlines for the Capital Needs Assessment (formerly the Physical Condition Assessment) and plan amendments have been eliminated and the

deadline for submission of the Financing Plan is linked to the type of tax credit award sought.

#### **Changes in Ownership/Control Requirements.**

The Notice clarifies what may be used to show adequate control by a nonprofit or public agency. HUD has indicated that subordinate financing or an option/right of first refusal alone will not suffice.

#### **Fair Housing and Site and Neighborhood**

**Review.** The Notice specifies applicable nondiscrimination and equal opportunity requirements and clarifies that HUD site selection and neighborhood standards review applies to new construction on an existing site.

#### **Additional Time to Plan Multi-Phase Projects.**

Newer multi-phase RAD projects now have until July 1, 2018 to apply for conversion of the last phase of the project.

#### **The Notice revisions address numerous other areas, including:**

- Financing benchmarks
- Transfer of Assistance rules
- Moving-to-Work program coordination
- Section 18-Demolition/Disposition general incompatibility
- Waiting list options
- Moderate Rehabilitation and Rent Supplement/Rental Assistance Payment rules (Second and Third Components of RAD)

HUD has indicated that it intends to update other program materials, including the Project-Based Voucher and Project-Based Rental Assistance "Quick Reference" conversion guides, and to provide continuing guidance for the RAD program.

For more information, please contact Michelle Brewer, Isabel Brown, Dianne Jackson McLean, Hana Hardy, or any other attorney at Goldfarb & Lipman.