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Email

October 5, 2016

Ian Meyer  
Dept. of Housing and Community Development  
100 Cambridge Street, Suite 300  
Boston, MA 02114

**RE: Comments on amendments to proposed state public regulations** Dear Mr. Meyer:

The Massachusetts Union of Public Housing Tenants, the statewide public housing tenant organization in Massachusetts, respectfully submits these comments to the Massachusetts Department of Housing and Community Development (DHCD) in response to proposed changes to regulations that impact public housing residents.

Our comments are on DHCD's proposed amendments to Sections 4.00, 6.00, 11.00, and 63.00 of 760 CMR. MUPHT Board members met over the course of three days with Massachusetts Law Reform Institute to review the proposed regulations and discuss their affect public housing residents and public housing.

Mass Union also reviewed comments that MLRI with Greater Boston Legal Services submitted on these proposed regulations (*referred to as MLRI Comment*). See attached. We support all of their comments with the certain emphasis, additions or exceptions. (*Mass Union tracks our comments to MLRI Comment numbers.*)

**1. MLRI Comment 1 - LHA Website**

In addition to requiring LHAs to post the documents listed in Comment 1, Mass Union urges DHCD to require LHAs post the rent hardship form online. While many residents do not have computers, more and more do, some Local Tenant Organizations have computers, and community organizations that help residents generally have computers.

The website is a very efficient way to get out information to a community and in the long-run save staff time tracking down documents. Many LHAs have excellent websites and many still need to evolve. *760 CMR 4.03(1)(a)*

2. MLRI Comment 9 - **Annual Plan List of Waivers**

We agree with Comment 9 that DHCD should require that LHAs list all waivers in the LHAs Annual Plan that DHCD has approved. This will make more transparent what waivers a LHA is operating under. In addition, Mass Union feels that waivers should not be forever. The Annual Plan offers an important opportunity to review waivers and Mass Union urges that regulations require that waivers be reviewed annually during the Annual Planning process. *760 CMR 4.17(b)*

3. MLRI Comment 12 - **Resident Participation Before Release of Annual Plan** We agree with Comment 12. Just as DHCD asked for our feedback and feedback from housing authorities before releasing these regulations, we feel that the best time for housing authorities to get input from residents and community advocates on the annual plan is before the release of the draft annual plan. Mass Union urges that DHCD require that housing authorities meet with Resident Advisory Boards (RAB), residents, and advocates during the development of a plan at least twice before it is put out for comment. In the long run this will be more efficient and our participation can be more meaningful.

4. MLRI Comment 15 - **Annual Plan Comment Period**

DHCD proposed that residents have 10 business days to comments on a LHA's draft Annual Plan. Comment 15 recommends 30 days. We disagree with Comment 15. Mass Union urges DHCD to require a 45 day comment period for the Annual Plan. This is the same as the federal regulations and would be consistent and easier to manage for those LHAs that have federal housing. But it will also be less onerous for small LHAs that have shared or part-time executive directors who may be managing multiple annual plan processes. *760 CMR 4.17(f)(i)*

5. MLRI Comment 19(a) - **Definition of Residents**

Mass Union supports Comment 19 and that: "Residents," in the context of resident participation, be defined as an adult member of a tenant household in any LHA-assisted housing, whether it is state or federal public housing or rental assistance or any other housing program. We feel that resident participation should be as inclusive as possible. *760 CMR 6.03 - Definition of Resident*

6. MLRI Comment 20 - **Post and Develop Standard Rent Hardship Form** In addition to providing residents with notice of the procedure for seeking a rent hardship as both an attachment to our leases and during rent recertifications, Mass Union urges DHCD to require that LHAs post on their website the rent hardship request form. Mass Union also urges DHCD to develop a standard hardship form and translate it into multiple languages so that

LHAs do not have to reinvent the wheel and so that tenants are receiving consistent and correct information in plain language. *760 CMR 6.04(1)(e) and 760 CMR 4.03(1)(a)*

7. **MLRI Comment 21 - Local Tenants Group versus Resident Associations** We support Comment 21. Mass Union is concerned that the proposed regulations have housing authorities first encouraging elections of multiple Resident Associations and then these groups could seek to be the officially recognized Local Tenant Organization. We are concerned that this two-tiered structure will pit groups, social clubs, and clicks against each other and divide a community as opposed to bringing a community together. As DHCD knows there are already misunderstandings and division within communities and we feel that this will add to the confusion and may create even more divisions in a community, including racial and ethnic division. As opposed to encouraging that multiple resident groups have elections and then encouraging them to become the officially recognized LTO, Mass Union recommends keeping it clear and continuing to require LHAs to encourage the formation of LTOs as the democratically elected group that officially represents the residents.
  
8. **MLRI Comment 23 - Written Rules or By-laws**  
We agree with Comment 23 that regulations not be too prescriptive in certain ways and that by-laws should dictate how special elections are held, how vacancies are filled (because this may need to happen more than once a year – as it says in the proposed regs), and how once a LTO Board is elected how its officers are elected. Mass Union also recommends that instead of establishing a 10% threshold of “residents represented” to vote on bylaws that by-laws provide that a quorum must be present and establish what a quorum is. A 10% threshold of residents could be very high and unachievable in some places.
  
9. **MLRI Comment 23 - LTO Budgets**  
We agree with the proposed new section of the regulations that requires a LTO or proposed LTO to hold a meeting with LTO members to review a proposed yearly budget that include all income and all expenditures. This is critical for a LTO’s financial accountability to the people it represents. But we disagree that an LTO should have to submit a proposed budget to the LHA with all sources of income. We feel that the LTO should be required to submit only a proposed budget with the state funds that the LHA provides for tenant participation, not private funds that it raises on its own. Mass Union feels that a LTO should absolutely be financially accountable to the LHA, but only for state tenant participation funds. Section CMR 6.09(2)(a)(x)
  
10. **MLRI Comment 24 - LTO Option to Cure Violation**  
Mass Union agrees with Comment 24 that a LHA must be required to tell a LTO how it can cure a violation to stay recognized. But Mass Union recommends that in all cases LTOs be given the opportunity to correct the violation. This is basic fairness. *760 CMR 6.09(2)(d)*
  
11. **MLRI Comment 25 - DHCD Review of LTO Recognition**

Mass Union agrees with Comment 25 and was very pleased that DHCD clarified that its role will be to review an LHA's decision to grant, deny, or revoke of recognition so that residents can appeal directly to you and express their concerns.

12. MLRI Comment 30(c) - **Annual Plan Comment Period**

Mass Union recommends that comment period for the Annual Plan be 45 days.  
(See our comment 4 above). *760 CMR 6.09(3)(h)*

13. MLRI Comment 30(d) - **Annual Plan Tenant Participation Certification** Mass Union agrees that there should not be a tenant sign-off on the Annual Plan because that can be fraught with problems. While a self-certification that the LHA has complied with tenant participation requirements can also be problematic, Mass Union urges DHCD to require that a self-certification document specifically how a LHA complied with tenant participation requires (number of meetings with LTOs, residents, community groups, notice of public hearings, etc...) and that this certification be given to a LTO and/or RAB and posted in conspicuous places so that all know what steps a LHA has taken to involve tenants. *760 CMR 6.09(3)(h)*

14. MLRI Comment 32 - **Resident Advisory Boards**

Mass Union wants to thank DHCD for including in the regulations that residents can form a Resident Advisory Board, also known as a RAB. That makes tremendous sense. We were also happy to see that the regulations clarified in 760 CMR 6.03, under the definition of a Resident Advisory Board, that the RAB can have both state and federal tenants on it. Mass Union urges DHCD to be even more inclusive and clarify that state and federal voucher tenants and tenants in affordable mixed finance public housing can be part of a RAB, too. MUPHT feel that - as residents - we all in this together. In addition, Mass Union recommends that regulations provide that LHAs, through a fair process, residents can select their own representatives to a RAB as opposed to a housing authority appointing a RAB. That process may be different in different developments. *760 CMR 6.03 and 6.09(3)(j)*

15. MLRI Comment 35 - **Additional Resident Participation**

Thank you for taking the lead to include in regulations that LHAs must provide ALL RESIDENTS, whether or not there is a Local Tenant Organization, with an opportunity to comments on matters that affect them. This is important because in some of the communities there are no tenant organizations. Mass Union also agrees that if there is no LTO that a loosely associated group of residents can play an important role in giving and LHA input on matters that affect residents. We agree with Comment 35 and Mass Union recommends adding language in this section that "loosely formed ad hoc tenant groups may serve a useful function in providing an opportunity for tenants to work together on matter that affect their interests." *760 CMR 6.09(4)(e)*

16. MLRI Comment 39 - **Tenants on LHA Boards**

Mass Union agrees with Comment 39 and feels that the tenant seat should be as inclusive as possible and that a tenant who is "directly assisted by the LHA" can be a tenant in state or

federal public or subsidized housing. We also feel that it would be very helpful to have this section of the regulations spell out the process for Town, Cities, and for LHAs that have may not have a Board of Commissioners, but has some other form of governance, so we can all look to one place to find the rules.

17. MLRI Comment 50 - **Modernization, Bidding and Jobs for Residents** We hope that DHCD will establish that in large modernization projects - which the proposed regulations now define as \$100,000 or over - that contractors should - to the extent feasible - provide training and jobs opportunities to residents. We are not asking for a full blown law like Section 3, but as regulations are being amended this is a critical moment to extend economic opportunity to public housing residents.

18. MLRI Comment 51 - **Change Orders during Modernization**

We agree with this comment that a LHA must post and give to a LTO approved change orders for substantial change orders, but Mass Union urges DHCD to clarify that “substantial” means that it “substantially impacts residents or substantially impacting the entire project.” 760 CMR 11.06(4)(b)

19. MLRI Comment 65(b) - **Comment Period for Regional Housing Authority Innovations Program Annual Plan**

We urge that regulations adopt similar Annual Plan requirements for the new Regional Housing Authority Innovations Program as are adopted for the new Annual Plan, both passed in the same law. But we disagree with Comment 65(b) and feel that instead of a 30 day comment period, Mass Union recommends that there should be a 45 comment period because there will be additional challenges to having an inclusive process among multiple communities of between 7-10 different communities. 760 CMR 63.04(F)

Finally, Mass Union wishes to thank DHCD for investing in the Independent Technical Assistance Program which the 2014 public housing law established for tenants. Even though it is separate from the regulation process, for us it is very much related because to have meaningful participation. Tenant groups and tenant leaders need training, just like housing authorities and LHA boards need training. These regulations and training for resident leaders, LTOs, and emerging LTOs are a critical part of developing strong working relationships.

Thank you.

Respectfully Yours,

*William H. King*

William H. King, Chairman