

## CHALLENGED ELEMENTS

### Lorain Metropolitan Housing Authority's 2018 ANNUAL PLAN Public Comments received during advertising period

LMHA received several comments on its 2018 Annual Plan during the advertising period. In particular, The Legal Aid Society of Cleveland ("Cleveland Legal Aid") submitted comments via email at 11:16 a.m. on Wednesday, March 21, 2018.

LMHA's responses follow each comment.

#### PUBLIC HOUSING ACOP

##### PUBLIC COMMENT

On page 3 of the current PH Pet Policy, the definition reads:

**For the purpose of the LMHA Pet Policy, "common household pet"** is defined as a domesticated animal traditionally kept in the home for pleasure. "Pet" is limited to cats, dogs, birds (parakeets, canaries, parrots, & cockatiels), caged rodents (hamsters, gerbils, & guinea pigs), turtles and fish.

On Page 10-7, 10-II.C of the Proposed Pet Policy, the definition makes no reference to turtles as permissible, so they'd probably be excluded as a reptile. Are turtles still permitted?

##### LMHA RESPONSE

Thank you for pointing that out. Yes, turtles are still permitted. The revised definition will read:

##### **Definition of "Common Household Pet"**

##### PHA Policy

*Common household pet* means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles (including iguanas, snakes, komodo dragons, and other lizards) excluding 1 turtle...

##### Cleveland Legal Aid Comment

I. Admissions & Continued Occupancy Policy (ACOP)

1. Section 7-I.D: Written Third-Party Verification Form (page 7-7)

LMHA proposes that residents will be required to obtain third-party verification from the Department of Jobs and Family Services, and from the Child Support Enforcement Agency. LMHA should only adopt this change if LMHA will offer residents assistance in accessing the website and completing the process online for requesting these forms. Otherwise, LMHA should follow HUD's verification hierarchy, as outlined in 7-LB. of the ACOP and in HUD Notice PIH-2010-19 (HA), issued May 17, 2010.

### **LMHA Response**

For more than 6 years, LMHA has been providing tenants assistance to access social service websites. LCJFS and LCCSEA discontinued providing third-party verifications to LMHA circa 2011. Tenants/participants/applicants have been required to get their own printouts and bring them to LMHA. To reduce this burden on our clients and improve response time, LMHA installed computers at all management offices for residents to use to register, log in and, obtain verifications from external social service agencies. Residents may continue to obtain these printouts directly from LCJFS in person or via mail in compliance with LCJFS's requirements.

LMHA does indeed follow HUD's verification hierarchy, as outlined in 7-I.B. of the ACOP and HUD Notice PIH-2010-19.

In summary, LMHA will not make any changes in response to this comment.

### **Cleveland Legal Aid Comment**

2. Section 8-II.C: Notice of Entry (page 8-13)

LMHA proposes that it may enter a unit for repairs requested by a resident without prior notice, because "resident-requested repairs presume permission" for LMHA's entry. LMHA should not adopt this language. A resident is entitled to advance notice of a landlord's intent to enter the unit except in case of emergency or other unforeseen circumstances. R.C. § 5321.04(A)(8). A non-emergency request for repairs meets neither of these exceptions.

### **LMHA Response**

The proposed language is: "Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the PHA to enter the unit."

LMHA will change the language to:

Entry for repairs requested by the family will not require prior notice. If the family does not grant permission to enter the unit, then LMHA will issue a 48-hour written notice of entry, except in case of emergency or other unforeseen circumstances.

### **Cleveland Legal Aid Comment**

3. Section 9-III.B [sic]!: Family Initiated Interim Reexaminations (page 9-16)

LMHA proposes that families should be required to report "all increases in earned income, including new employment, within 10 business days of the date the change takes effect." LMHA should not adopt this provision. Instead, LMHA should allow families at least 14 business days to report increases in income.

In the same section, LMHA proposes to limit the interim reexaminations it conducts when a resident reports changes to income likely to result in increased rent. Specifically, LMHA proposes to conduct interim reexaminations only when the family reporting the increase qualifies for the Earned Income Disregard. In other instances of increased income, the increase is noted in the file, but does not result in an interim recertification.

Cleveland Legal Aid commends this change. Many residents hold jobs with ever changing hours, such as PRN healthcare workers, or work for temporary staffing agencies that also do not provide stable hours and therefore stable income. Frequent reporting of income changes is a burden on residents, and the processing of those changes is a burden on LMHA. Reducing the amount of reexaminations will provide LMHA staff with additional time to process the reexaminations that do occur, especially those resulting in decreased rent.

In addition, LMHA should clarify that residents will not be liable for increased rent prior to the date the recertification is completed.

### **LMHA Response**

Cleveland Legal Aid is correct in that LMHA referred to the wrong Section in the ACOP. The correct section is:

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

#### **Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

The 10 business days is *not* a change in policy, but has been standard practice for nearly 4 years (7/1/2014). The change is that only increases in earned income, including new employment, must be reported within the 10 business days. LMHA intends to retain the 10 business day time frame.

Regarding the effective dates of interim recertifications, LMHA defines this in Section 9-III.D:

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively to the first of the month following the date in which the change occurred. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In summary, LMHA will not make any changes to the ACOP in response to this comment, but has made corrections to the document summarizing changes.

### **Cleveland Legal Aid Comment**

4. Section 9-III.C and 9-III.D: Family Initiated Interim Reexaminations (page 9-16)

LMHA proposes to conduct interim reexaminations for reductions in resident income that last more than 30 days. LMHA proposes that the effective date of the reduced rent will be the first day of the month following the reported change, but notes that "in cases where the change cannot be verified until after the change would have become effective, the change will be made retroactively provided all required information is submitted within the required time frames."

Upon a review of the ACOP, Cleveland Legal Aid can find no relevant time frames that apply in this situation. Further, it is unclear what information is required to be submitted. LMHA should clarify these provisions to provide residents with clear guidance on what documentation is needed to obtain a rent reduction, and what the time frame is required to submit said documentation. LMHA should prioritize conducting reexaminations for residents who have reported decreased income, as their inability to pay their current rent' creates the potential for evictions on the basis of non-payment.

### **LMHA Response**

Based on Legal Aid's comments, LMHA proposes the additional language (highlighted in yellow): "in cases where the change cannot be verified until after the change would have become effective, the change will be made retroactively provided all required verifications are submitted within the required time frames as defined in LMHA's written notice to the tenant."

Typically, the first notice to the tenant requests the verifications within 7 calendar days, the second written request allows another 7 calendar days.

## **HCVP ADMINISTRATIVE POLICY**

### **PUBLIC COMMENT**

HCVP Admin Policy, on Page 239. Homeownership Program, it is proposed that *all* applicants for the homeownership program are required to participate in the FSS Program. Persons who are elderly or disabled and therefore not employed would gain no benefit from the FSS Program. The FSS program is voluntary and cannot be mandated for anyone.

### **LMHA RESPONSE**

LMHA understands and agrees. This addendum to the Administrative Plan will now read: "Applicants for the homeownership program are encouraged to participate in this PHA's Family Self-Sufficiency Program (FSS), unless the applicant is elderly or a person with disabilities."

### **PUBLIC COMMENT**

HQS Inspections every two years – Landlord did not agree with criteria. In order to qualify for biennial inspection, a landlord must have had no more than 5 special inspections and no abatements in the last two years. Landlords that have several units will never qualify for this.

### **LMHA RESPONSE**

LMHA made this decision after receiving feedback from several other housing authorities that have implemented biennial inspections. We chose this to reduce the amount of special inspections in between annual inspections. We will work on this new process together and we are open to suggestions on how to improve the system.

### **PUBLIC COMMENT**

Automatically rescheduling failed annual inspections – Many landlords commented on how appreciating this new change. They felt that this would cut down the number of late payments and pro-rated amounts. One landlord said this was helpful because he deals with another housing authority that does the inspections this way and he doesn't have to worry about remembering to contact LMHA. Another landlord said he appreciated this change but wanted to make sure he could call in when repairs were done to avoid an abatement.

### **LMHA RESPONSE**

Landlord and families are permitted to contact us and ask for an earlier inspection in order to avoid contract termination or when the amount is going to be pro-rated.

### **Cleveland Legal Aid Comment**

#### II. Administrative Plan

##### 1. Chapter 6(A): Minimum Rent (page 60)

LMHA proposes to include language allowing for hardship exemptions from the minimum rent requirement. Cleveland Legal Aid supports the inclusion of this language, as it is required by 24 CFR § 5.630.

### **LMHA Response**

Thank you.

### **Cleveland Legal Aid Comment**

##### 2. Chapter 8(F): Term of Voucher (page 109)

LMHA proposes removing language that limits extensions on vouchers being ported to other jurisdictions. Cleveland Legal Aid supports this change, as identifying landlords who are willing to participate in the Housing Choice Voucher Program ("HCVP") is an on-going challenge for residents.

For the same reason, LMHA should increase the initial term of the voucher from 60 to 120 days.

In addition, LMHA should clarify whether the submission of a Request for Tenancy Approval ("RFTA") affects the number of remaining days on the voucher, pending processing of the RFTA. LMHA should adopt a policy that submission of a RFTA tolls the voucher expiration.

In addition, LMHA should also exercise its discretion in granting additional extensions.

### **LMHA Response**

LMHA prefers to keep the initial term of the voucher at 60 days and continue the practice of allowing extensions. Our goal is to house as many families as possible, and 60 days helps us to determine success rate of utilization and to plan for future voucher issuance. On average, families lease up within 90 days.

LMHA appreciates the recommendation and will add the following language to Chapter 8, Voucher Issuance and Briefings. Section F Term of Voucher. Suspensions (tolling) (page 109): When a Request for Tenancy Approval is received, LMHA will freeze the number of days on the term of the voucher while the request is being processed.

LMHA liberally exercises its discretion in granting additional extensions.

### **Cleveland Legal Aid Comment**

3. Chapter 10(C): HQS Inspections (page 125)

LMHA proposes to change its re-inspection process after Housing Quality Standard violations are found. LMHA proposes a change that would require re- inspections to be scheduled automatically, instead of waiting for notification that repairs are complete to re-inspect. Cleveland Legal Aid supports this change.

### **LMHA Response**

Thank you.

### **Cleveland Legal Aid Comment**

4. Chapter 12(B): Annual Recertification/Reexamination (page 140)

LMHA proposes to add language allowing for annual recertifications to be done via mail. Cleveland Legal Aid commends LMHA for providing participants the opportunity to recertify by mail, as this will make recertification easier for many families. However, LMHA should clarify in which situations it will conduct recertification by mail and when it will require in-office recertification.

### **LMHA Response**

Thank you, LMHA agrees that it would be helpful to add typical situations in which in-office recertifications would be necessary. The additional language is highlighted in yellow.

LMHA will mail the annual certification documentation to the family. However, there are times that the family may be required to attend, including but not limited to: Change in head of household, change in lease terms, significant change in rent, family going over income, or upon request of the family.

### **Cleveland Legal Aid Comment**

#### 5. Chapter 12(C): Reporting Interim Changes (page 142)

As in the ACOP, LMHA proposes that families should be required to report "all increases in earned income, including new employment, within 10 business days of the date the change takes effect." For the same reason listed above in Section 1(3), LMHA should not adopt this change.

LMHA proposes to limit the interim reexaminations it conducts when a HCVP participant reports an increase in income, also a change it has proposed to the ACOP. Specifically, LMHA proposes to conduct interim reexaminations only when the family reporting the increase qualifies for the Earned Income Disregard, and the increase will change the participant's rent. Cleveland Legal Aid supports this change for all of the reasons listed above in Section 1(3).

### **LMHA Response**

As noted previously, the 10 business day reporting requirement was not a change for Public Housing, but this *will* be a change for HCVP. LMHA has been making changes to the policies in the ACOP and Admin Plan so that they coincide. This consistency across programs makes it easier for applicants, tenants, participants, and employees in the HCVP, Public Housing, and admissions departments.

In summary, LMHA will not make any changes to the ACOP in response to this comment.

### **Cleveland Legal Aid Comment**

#### 6. Chapter 15(1): VASH Graduates (page 177)

LMHA proposes to add a section in Chapter 15, which governs terminations, relating specifically to participants in the HUD-VASH program. Specifically, LMHA proposes the following language: "a HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC." LMHA should not adopt this language. VASH is a program addressing veteran homelessness that emphasizes the housing first model. Demanding strict compliance with the case management requirement is at odds with the philosophy and purpose of the VASH program. In addition, participants in HUD-VASH are entitled to due process, including notice and a hearing.

### **LMHA Response**

A condition of eligibility for a HUD-VASH voucher is that the families receive VA case management services. A family's HCV assistance must be terminated if the family refuses, *without good cause*, to participate in required case management as verified by the VAMC. LMHA will adopt the proposed language.

To be clear, a determination by the VAMC that case management is no longer required is not grounds for termination of the HCV assistance. The family will be offered a regular voucher to free up the HUD-VASH voucher for another eligible homeless veteran.

Also, we are complying with the Federal Register, Vol 77, No. 57, page 17089 that addresses termination of assistance. We partner with the VA case manager to ensure families are not

terminated for failure of family obligations or other reasons other than failure to comply with case management or graduation.

In summary, LMHA will not make any changes to the ACOP in response to this comment.

## **LMHA’S 2018 ANNUAL PLAN DOCUMENT**

### **PUBLIC COMMENT**

Landlords, housing advocates, and developers have requested that LMHA provide Project Based Vouchers (PBV) for their projects. LMHA has considered redeveloping public housing properties with funding sources that may include the use of PBV.

### **LMHA RESPONSE**

Because of the level of interest, LMHA will modify the language in the Annual Plan to declare its intention to *possibly* solicit a Request for Proposals (RFP) for PBV in FY19. LMHA has a Project Based Voucher Policy in its HCVP Administrative Policy and will follow that Policy.

Instructions for the Annual Plan Section B.2.b, states: “If using Project-Based Vouchers (PBVs), provide the projected number of project based units and general locations, and describe how project basing would be consistent with the PHA Plan.” In compliance with the instructions, LMHA will add the following language:

“LMHA intends to operate a project-based voucher program and work with community partners to identify specific target populations to be served through project-based vouchers. The agency may issue RFPs in the coming year to utilize up to 300 vouchers. LMHA may also consider applications outside the RFP process consistent with the LMHA Administrative Plan. LMHA has tentatively determined that up to 300 vouchers could be project-based in the Plan year.

The project based vouchers would be used to convert two existing public housing developments to project based section 8 to preserve affordable housing in the Cities of Lorain and Elyria. Southside Gardens in Lorain and Wilkes Villa in Elyria are two public housing developments which have become functionally obsolete. It has been determined the properties exceed HUD thresholds for rehabilitation and need to be replaced.

It is anticipated that Southside Gardens would require approximately 105 vouchers and Wilkes Villa 150.

The Authority proposes to apply for 2019 Low Income Housing Tax Credit funding to preserve affordable housing.

In addition to these projects, the Authority will issue project based vouchers for projects that create affordable housing in areas of lower concentration of poverty in Lorain County, which would be consistent with the deconcentration policy of the LMHA Annual Plan.

The Authority may issue project based vouchers to developer(s) who assist homeless persons or who have one or more disabling conditions that complicate their ability to find and maintain housing.”

## **FIVE YEAR ACTION PLAN**

### **PUBLIC COMMENT**

There are some projects missing from the 5 Year Action Plan which really ought to be in there which were discussed with staff after the RAB meeting, and there are some that are in there twice.

### **LMHA RESPONSE**

LMHA has corrected the duplicates and added the missing projects:

#### **The following duplicate projects have been removed:**

- 12-6 Riverview Plaza Repair and Seal Rear Deck and Foundation, \$45,000, year 2022
- 12-320 Scattered Sites Driveway & Sidewalk Repair/Resurface, \$35,000, year 2021
- 12-22 Scattered Sites Driveway & Sidewalk Repair/Resurface, \$5,000, year 2021
- 12-4 John Frederick Oberlin Homes Seal & Stripe Parking Lot, \$30,000, year 2022
- 12-4 John Frederick Oberlin Homes Seal Parking Lot, \$40,000, year 2021
- 12-4 John Frederick Oberlin Homes Replace Fire Alarm System, \$100,000, year 2022
- 12-11 Albright Terrace Replace Fire Alarm System, \$100,000, year 2022
- 12-420 Scattered Sites Replace Furnaces, \$45,000, year 2021
- 12-21 Scattered Sites Replace Furnaces, \$62,500, year 2021 and 2022
- 12-5 Kennedy Plaza Replace Stoves, \$69,200, year 2021
- 12-10 Lakeview Plaza Replace Stoves, \$84,000, year 2021
- 12-3 Wilkes Villa Replace Refrigerators, \$126,000, year 2022
- 12-4 John Frederick Oberlin Homes Site Improvements: Grading, Drainage in Existing Trenches & Resurfacing Pavement, \$18,000, year 2022
- 12-5 Kennedy Plaza Inspect Building Exterior, \$50,000, year 2022
- 12-10 Lakeview Plaza Elevator Upgrade, \$650,000, year 2021

#### **The following new projects have been added:**

- 12-6 Riverview Plaza Inspect & Repair Building Exterior, \$110,000, year 2022
- 12-10 Lakeview Plaza Inspect & Repair Building Exterior \$110,000, year 2022
- 12-10 Lakeview Plaza PM Inspect Roof Top Safety Systems, \$1,250, year 2022
- 12-10 Lakeview Plaza Replace Standpipe System, \$180,000, year 2020
- 12-10 Lakeview Plaza Exterior Door Replacement, \$15,000, year 2018
- 12-13/14 Southside Gardens Electric Meter Base Replacement, \$200,000, year 2020
- 12-27 LMHA Oberlin Homes HVAC Improvements, \$500,000, year 2020
- 12-27 LMHA Oberlin Homes Fire Stop Installation, \$350,000, year 2020

**The following projects have been removed because the work is complete:**

12-5 Kennedy Plaza Replace Exterior Kitchen Door, \$3,500, year 2022

12-10 Lakeview Plaza Replace North Side Sliding Door, \$15,000, year 2022

12-4 John Frederick Oberlin Homes Replace Boiler System, \$250,000, year 2022

**Other updates:**

12-4 John Frederick Oberlin Homes Inspect Building Exterior, \$35,000, year 2022. Amended to “Inspect & Repair Building Exterior”

PHA-Wide Management Improvements, \$50,000, year 2018. Updated to \$80,000

12-10 Lakeview Plaza Elevator Upgrade, \$550,000, year 2018. Updated to \$505,000



*The*  
**Legal Aid Society**  
*of Cleveland*  
*Since 1905*

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From: Callie E. Dendrinis   
Re: 2018 Proposed Revisions LMHA Annual Plan  
Date: March 21, 2018

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The Legal Aid Society of Cleveland (“Cleveland Legal Aid”) is a non-profit provider of legal services in northeastern Ohio. We provide free civil legal representation to low-income individuals in five counties, including Lorain County. As part of our practice, we represent residents in many forms of subsidized housing, including residents of and applicants to the Lorain Metropolitan Housing Authority (“LMHA”).

Cleveland Legal Aid is hereby providing the following comments regarding LMHA’s proposed changes to the Public Housing Admissions and Continued Occupancy Plan (“ACOP”) and the Housing Choice Voucher Program Administrative Plan (“Admin Plan”).

## **I. Admissions & Continued Occupancy Policy (ACOP)**

### **1. Section 7-I.D: Written Third-Party Verification Form (page 7-7)**

LMHA proposes that residents will be required to obtain third-party verification from the Department of Jobs and Family Services, and from the Child Support Enforcement Agency. LMHA should only adopt this change if LMHA will offer residents assistance in accessing the website and completing the process online for requesting these forms. Otherwise, LMHA should follow HUD’s verification hierarchy, as outlined in 7-I.B. of the ACOP and in HUD Notice PIH-2010-19 (HA), issued May 17, 2010.

### **2. Section 8-II.C: Notice of Entry (page 8-13)**

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**3. Section 9-III.B [sic]<sup>1</sup>: Family Initiated Interim Reexaminations (page 9-16)**

LMHA proposes that families should be required to report “all increases in earned income, including new employment, within 10 business days of the date the change takes effect.” LMHA should not adopt this provision. Instead, LMHA should allow families at least 14 business days to report increases in income.

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Cleveland Legal Aid commends this change. Many residents hold jobs with ever-changing hours, such as PRN healthcare workers, or work for temporary staffing agencies that also do not provide stable hours and therefore stable income. Frequent reporting of income changes is a burden on residents, and the processing of those changes is a burden on LMHA. Reducing the amount of reexaminations will provide LMHA staff with additional time to process the reexaminations that do occur, especially those resulting in decreased rent.

In addition, LMHA should clarify that residents will not be liable for increased rent prior to the date the recertification is completed.

**4. Section 9-III.C and 9-III.D: Family Initiated Interim Reexaminations (page 9-16)**

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Upon a review of the ACOP, Cleveland Legal Aid can find no relevant time frames that apply in this situation. Further, it is unclear what information is required to be submitted. LMHA should clarify these provisions to provide residents with clear guidance on what documentation is needed to obtain a rent reduction, and what the time frame is required to submit said documentation. LMHA should prioritize conducting reexaminations for residents who have reported decreased income, as their inability to pay their current rent creates the potential for evictions on the basis of non-payment.

**II. Administrative Plan**

**1. Chapter 6(A): Minimum Rent (page 60)**

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<sup>1</sup> LMHA references Section 9-III.B. for this change, but it appears to apply to 9-III.C.

LMHA proposes to include language allowing for hardship exemptions from the minimum rent requirement. Cleveland Legal Aid supports the inclusion of this language, as it is required by 24 CFR § 5.630.

**2. Chapter 8(F): Term of Voucher (page 109)**

LMHA proposes removing language that limits extensions on vouchers being ported to other jurisdictions. Cleveland Legal Aid supports this change, as identifying landlords who are willing to participate in the Housing Choice Voucher Program (“HCVP”) is an on-going challenge for residents.

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change the participant's rent. Cleveland Legal Aid supports this change for all of the reasons listed above in Section I(3).

**6. Chapter 15(I): VASH Graduates (page 177)**

LMHA proposes to add a section in Chapter 15, which governs terminations, relating specifically to participants in the HUD-VASH program. Specifically, LMHA proposes the following language: "a HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC." LMHA should not adopt this language. VASH is a program addressing veteran homelessness that emphasizes the housing first model. Demanding strict compliance with the case management requirement is at odds with the philosophy and purpose of the VASH program. In addition, participants in HUD-VASH are entitled to due process, including notice and a hearing.