



# Public Housing Repositioning Wednesday Webinar Series: Preservation Strategies

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March 17, 2021



# Presenters

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# Why are we here?

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- The goal of this webinar series is to help explain and discuss common issues in the repositioning process.
- Today's call will focus on:

## Preservation Strategies

- ✓ Review the various options available for PHAs interested in preserving Public Housing units **that need rehab**.
- ✓ Understand some of the barriers to preserving public housing through the Project-Based Voucher (PBV) program.
- ✓ Understand options for attaching PBV assistance (HAP vs. AHAP) when redevelopment is planned.



Webinar Topics	Dates
<a href="#"><u>Developing a Repositioning Strategy</u></a>	May 13, 2020
<a href="#"><u>Options for Scattered-Site Units</u></a>	June 3, 2020
<a href="#"><u>Options for 50-and-Under PHAs</u></a>	June 24, 2020
<a href="#"><u>Resident Considerations</u></a>	August 12, 2020
<a href="#"><u>Streamlined Voluntary Conversion</u></a>	September 2, 2020
<a href="#"><u>Proceeds Notice</u></a>	October 14, 2020
<a href="#"><u>Common PHA Board Questions</u></a>	October 28, 2020
<a href="#"><u>Public Housing Program Closeout</u></a>	November 18, 2020
<a href="#"><u>Project-Based Voucher Program Overview</u></a>	December 2, 2020
<a href="#"><u>RAD and Section 18 New Blend Options</u></a>	February 17, 2021
 <a href="#"><u>Preservation Strategies</u></a>	March 17, 2021
<a href="#"><u>Environmental Review Procedures</u></a>	April 14, 2021
<a href="#"><u>Working with a Developer</u></a>	TBD

All webinars are recorded and posted at [www.hudexchange.info](http://www.hudexchange.info)



# Primary Public Housing Preservation Tools

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## ■ Rental Assistance Demonstration (RAD) Program

- New 2020 RAD Rents are strong. 45% of Public Housing units can secure RAD Rents of at least 90% of the local Fair Market Rent (FMR) rate.
- New 4% Low Income Housing Tax Credit floor helps PHAs raise additional capital.
- PHAs can apply and find more information at [www.radresource.net](http://www.radresource.net)

## ■ RAD/Section 18 Blends

- [PIH Notice 2021-7](#) provides new flexibility for PHAs to use RAD with Section 18 in order to achieve greater project rents based on the level of rehabilitation. (Check out the [Repositioning Wednesday Webinar from February 17, 2021](#).)

## ■ Choice Neighborhoods

- HUD's primary tool for providing direct capital investment in Public Housing sites. Replacement units can be ACC, PBV, or RAD. Learn more at [www.hud.gov/cn](http://www.hud.gov/cn) and in [HUD's one-pager on CN and repositioning](#).



# Other Tools for Removing Properties from the Public Housing Program

- Section 22 or Streamlined Voluntary Conversion (SVC)

- This flexibility was provided in PIH Notice 2019-05. If you are interested in learning more, check out [HUD's SVC page](#).

- Section 18

- HUD's primary tool for the disposition and demolition of Public Housing. There is guidance available on [HUD's Section 18 page](#).



## SECTION 18 DEMOLITION/DISPOSITION CRITERIA



OBSOLESCENCE



HEALTH AND  
SAFETY



INFEASIBLE  
OPERATION



SCATTERED  
SITES



50 OR FEWER  
UNITS



RAD/SECTION  
18 BLENDS



MORE  
EFFICIENT AND  
EFFECTIVE

Find out about additional repositioning options  
on [HUD's repositioning website](#).

# Timing the Disposition & Redevelopment

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- If the Section 18 disposition is based on obsolescence and is below FMV based on the "commensurate public benefit" that the property will be rehabbed as PBV housing, then:
  - The disposition must be to the final entity (i.e., LIHTC developer) (no interim entity or PHA non-profit while the PHA applies for LIHTCs and financing);
  - Financing must be secure for the rehab; and
  - Rehab must begin immediately upon disposition.
  - \*HUD will not allow an interim entity to collect higher PBV rents on "obsolete units" when rehab is not imminent\*
- Even if the Section 18/SVC is not based on obsolescence, HA should still comply with the above if it has immediate rehab plans.



# The Path To Project-Based Voucher (PBV) Assistance

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PHAs that remove public housing through SVC or Section 18 may place PBV assistance on the site (some exceptions apply), but if the public housing property requires rehabilitation, the path may be difficult.

Note: Most of these issues apply to the Section 18 units in a RAD/Section 18 Blends, too.





# Current PBV Regulations Provide Guidance and Limitations

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## **PBV assistance can start in different ways:**

- Existing Housing – Allows PHA to attach PBVs to a project using a Housing Assistance Payment (HAP) Contract, often immediately following removal from the public housing program.
- Newly Constructed and Rehabilitated Housing – Allows PHAs to enter into HAP Contract following an Agreement to enter into HAP contract (AHAP). During the AHAP period, the owner constructs or rehabs the units and the units are not occupied by PBV-assisted families (no HAP subsidy).



# What Projects are Existing, Newly Constructed, and Rehabilitated?

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- Existing – Units substantially comply with Housing Quality Standards (HQS) on the proposal selection date.
- Newly Constructed – Units do not exist on the proposal selection date.
- Rehabilitated – Units exist but do not substantially comply with HQS on the proposal selection date.

See 24 CFR 983.3 and the [PBV FAQs](#)

Note: A PHA may classify a project as Rehabilitated, even if it meets the definition of Existing, in order to follow the Rehabilitated Housing process for project-basing units.

# Considerations with Trying to Convert as “Existing” when a Project Needs Work



- The regulations regarding project-basing Existing Housing expect that a PHA and an owner enter into a contract where both parties reasonably expect to fulfill the terms of the HAP Contract—the units will meet HQS, be in good and tenantable condition, and be available for eligible tenants for the duration of the contract.
- Example: 24 CFR 983.210(a) provides that the owner certifies that, at execution of the HAP contract and at all times during the term of the HAP Contract, all contract units are in good and tenantable condition and the owner is maintaining the premises and contract units in accordance with HQS.



# HQS Concerns with Work After a PBV HAP Contract is in Place

- Housing Quality Standards (HQS) must be vigorously enforced during the HAP Contract. (24 CFR 983.208).
  - Obsolescence: even if the units meet HQS upon initial conversion, by nature of being deemed “obsolete” the owner must conduct some significant amount of work in order to keep the unit at HQS standards for the duration of the PBV HAP Contract.
- The PHA cannot pay HAP for any period PBV units do not comply with HQS. (See 24 CFR 983.208).
- Work may be required to bring units up to HQS prior to HAP Contract, even though units will later be renovated. (See 24 CFR 983.204(a)).



# Tenant/Lease Concerns with Work After a PBV HAP Contract is in Place



- PBV tenants cannot be forced to terminate PBV leases – The owner can choose to terminate the lease only under limited conditions, which do not include a business or economic reason such as renovation, so relocation after occupancy of a PBV unit would have to be with tenant consent. (See 24 CFR 983.256-983.257) (Tenants/landlords could mutually agree, but tenants can't be coerced.)
- PBV leases, like all leases, allow the tenant to use and occupy the unit rented – The owner cannot force the family to live elsewhere while under lease. (See 24 CFR 983.210(d) and PBV Tenancy Addendum, HUD-52530.c Part B § 3).



# PBV Subsidy May Be Less Than Expected

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- HUD caps PBV rents on the Rent Reasonableness Standard –
  - Regardless of the local FMR, the PBV rent paid to the property owner may not be higher than comparable units in the market based on the units in their current state. (See 24 CFR 983.301; 983.303).
  - Owners can only ask for rent increases at the contract anniversary date. (See 24 CFR 983.302).
- There are no Rehab Assistance Payments, and owner will not get vacancy payments during work –
  - The PBV program does not allow for vacancy or move-out month payments if the vacancy is the owner's fault. (See 24 CFR 983.352).
  - The PHA cannot pay HAP for any period PBV units do not comply with HQS. (See 24 CFR 983.208).
  - (RAD allows for full contract rent on day-one, and Rehab Assistance Payments for vacant units during rehab – this does not apply to Section 18 units in a Blend).



# PBV Costs May Be More Than Expected

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- Davis-Bacon wage rates may apply – “Development Activity” initiated on existing housing within 18 months after the effective date of the HAP Contract is subject to Davis-Bacon if the project has 9 or more PBV units. (See 80 Fed. Reg. 12511 (Mar. 9, 2015)).
- PHA may not use capital funds at the site after disposition – Once the DOT is released from the land, the units are no longer Public Housing, so NO public housing funds can be used. (RAD does allow Public Housing funds to be used after DOT Release).





# Potential Solutions

**If the project needs rehab, follow the rehabilitated housing PBV procedures.**

- By classifying the project as "Rehabilitated Housing", the PHA may enter into an AHAP, conduct rehabilitation, then execute the PBV HAP contract.
- There is no subsidy associated with an AHAP. Current tenants must be temporarily or permanently housed during the AHAP, and will not be under a PBV lease.
- AHAP may be staged so that units are added to the HAP contract as they are completed. If some units will not have any work and already comply with HQS, the first stage of the HAP contract may be concurrent with date of the AHAP.

**Offer PBV offsite** – Use the TPVs to offer current residents PBVs at another project that is already, or that will be placed, under a PBV HAP contract, to vacate the PH project for renovation under an AHAP and then project-base using the PHA's current voucher BA.

**Phase the disposition** – The PHA may be able to relocate families within public housing units in order to vacate the units in the first phase; work for the first phase would occur under AHAP and the first phase would be placed under HAP contract and occupied, which vacates the next phase of public housing units to allow work on the next phase.







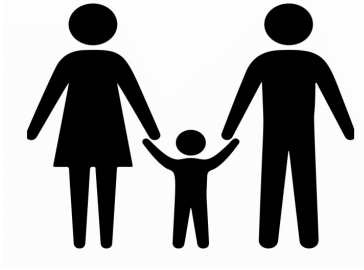
# Potential Solutions (Cont'd)

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## Offer Tenant-Based Assistance (TBA)

- **Move people out, and backfill** – Tenants move to other TBA units, the work proceeds under AHAP, the PHA project-bases the units when complete. If tenants do not return, the PHA must backfill with its regular voucher allocation.
- **Offer TBA in-unit so there is more flexibility after one year** – After the first year of TBA, an owner may terminate the lease for a business or economic reason. (See 24 CFR 982.310).

# Reminder of Tenant-Protection Voucher (TPV) Requirements

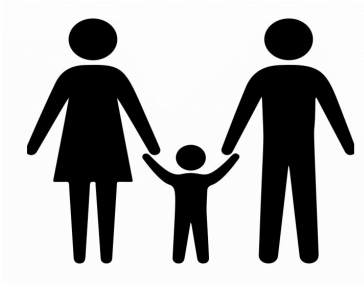


**TPV assistance follows the tenants.** If a PHA applies for and receives TPVs, it must offer the impacted residents the ability to relocate with that TPV assistance. (See Section 6 of PIH Notice 2018-09).



**Tenants relocated offsite with tenant-based assistance cannot be forced to return.** If the tenant moves offsite with tenant-based assistance, that tenant (and their associated TPV assistance) cannot be forced to return to the site.

# Reminder of Tenant-Protection Voucher (TPV) Requirements (Cont'd)



- There is no such thing as a “PBV award” that can be granted in lieu of a TPV award. PHAs must request TPVs and may project-base them.
- PHAs must follow the TPV request process separately from the Section 18, SVC, or other SAC application (applies to Section 18 units in RAD/Section 18 Blends).
- PHAs can immediately project-base a TPV upon removal from public housing only if all PBV requirements are met.

See [HUD's Tenant Protection Voucher Site](#) for more information.

# Consider all your Preservation Strategies

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- Consider RAD and Section 18 Blends. See previous webinar [RAD and Section 18 New Blend Options](#)
- Choice Neighborhoods. See <https://www.hud.gov/cn>
- RAD

Check out the [Resident Considerations Webinar](#) for more information on resident notification, consultation and relocation for the various repositioning tools



# Have You Seen the Latest RAD Rents?

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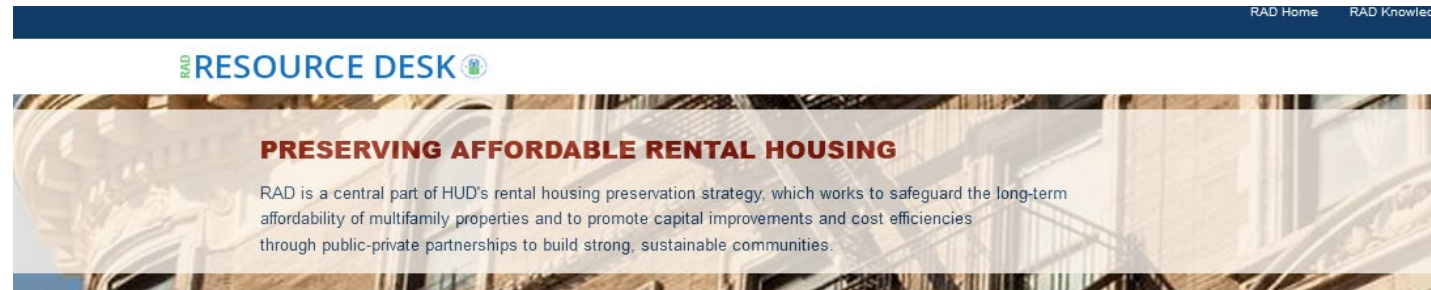
- In December 2020, HUD recalculated the RAD contract rents and published the [2020 RAD Rents](#). Today, 45% of public housing units nationwide can secure rents at or above 90% of the local Fair Market Rent.

# Plus, There are a Lot of RAD Resources

Check out the  
[www.radresource.net](http://www.radresource.net)

Here you can find:


- RAD Training Materials
- Videos
- Links to apply for RAD



The screenshot shows the top of the RAD Resource Desk website. At the top right are links for "RAD Home" and "RAD Knowledge". Below this is a dark blue header with the "RAD RESOURCE DESK" logo. The main content area features a background image of a modern building and the title "PRESERVING AFFORDABLE RENTAL HOUSING". Below the title is a paragraph: "RAD is a central part of HUD's rental housing preservation strategy, which works to safeguard the long-term affordability of multifamily properties and to promote capital improvements and cost efficiencies through public-private partnerships to build strong, sustainable communities."


## TWO COMPONENTS

The Rental Assistance Demonstration Program (RAD) allows proven financing tools to be applied to at-risk public and assisted housing under two components.



**RAD for PHAs**

Allows Public Housing properties to convert, under a competition limited to 455,000 units, to long-term Section 8 rental assistance contracts.



**RAD for Multifamily**

Allows Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), Mod Rehab and Section 202 PRAC properties to convert tenant-based vouchers issued upon contract expiration or termination to project-based assistance.



# If You are Interested in Converting to PBV Please Know the Requirements

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- [Project-Based Voucher Program Overview Webinar](#)
- [Project Based Voucher Website](#)

Before you invest too much in a plan, you can always request a Repositioning Assistance Panel through your Local Field Office.



# Questions?

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# Need additional Repositioning resources?

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- There is additional repositioning handouts and training materials available on the HUD Repositioning Website: [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/repositioning](https://www.hud.gov/program_offices/public_indian_housing/repositioning)
- [Introduction to Repositioning Webinar series](#) is available on HUD Exchange, and a live version is planned for August. ([Registration is now available](#))

# Still want more?

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- Check out the Public Housing Repositioning Website.  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/repositioning](https://www.hud.gov/program_offices/public_indian_housing/repositioning)
- Contact your Local Public Housing Field Office.  
PIH Field Offices can help you complete your RAD application, and provide additional assistance explaining the conversion options.
- Look for your Regional Convening.
- Email [Repositioning@hud.gov](mailto:Repositioning@hud.gov)

