



Housing and Development Law Institute

HDLI MESSENGER

A monthly electronic publication of the
Housing and Development Law Institute
OCTOBER 2004 EDITION

WHAT'S HAPPENING AT HDLI?

HDLI's 2004 FALL CONFERENCE entitled "**The Legal Effect of *Brown v. Board of Education* on Public Housing 50 Years Later**" and held on **October 12, 2004** in **Baltimore, MD** was a great success! If you were unable to attend in person, materials are available for purchase at a reasonable cost. A purchase form is attached.

HDLI's EMPLOYMENT LAW TRAINING held on **September 27, 2004** in **New York City** also received great praise! If you are interested in employment law training for your agency or if you would like to purchase the training materials, please contact us at **hdli@hdli.org**.

GETTING OUT THE VOTE! PHAs and Voting Initiatives

Particularly because this, again, is expected to be a very close presidential election, it is a worthwhile goal to GET OUT THE VOTE. However, many PHAs are confused as to what extent their residents and employees may legally participate in voting initiatives for this year's national and local elections. The most important thing to know is that an employee is legally entitled to partake in almost any political activity on their own time. That is, no law prohibits an employee from running for or holding office in non-partisan elections, electioneering, campaigning, or contributing money, as long as these activities are done outside of the workplace and without any sanctioning by the employer.

Federal law, known as the Hatch Act, limits the extent to which most PHA officers and employees can participate in a variety of partisan political activities. Your local and/or state law also may have similar or even more protective restrictions. The Hatch Act is applicable to your employees "whose principal employment is in connection with an activity financed in whole or in part by loans or grants made by the United States or a Federal agency." 5 U.S.C. §1501(4). Accordingly, the Hatch Act applies to employees who are involved with public housing, Section 8, and other federal programs as their "principal" employment and whose salaries are paid in whole or in part by those programs.

Partisan activities are those that are influenced by, or affiliated with, or supportive of, the interest or policies of any political party or candidate. Non-partisan activities are not prohibited by the Act. So, if an employee wants to participate in a nonpar-

tisan election, even run for office on company time, it is not prohibited by the Act - although it might be prohibited by PHA policy.

The Hatch Act prohibits three specific activities: 1) being a candidate for political office **in a partisan election**, 2) using official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office, and 3) directly or indirectly coercing contributions from subordinates in support of a political party or candidate. Your PHAs activities must be closely scrutinized under these factors.

Violations of the Act can result in very harsh penalties against the PHA and the employee. For example, if an employee violates the Act the PHA must either fire the employee or forfeit monies equivalent to two years pay. Additionally, the PHA can be penalized in subsequent federal funding awards.

Good resources on PHA "Do's and Dont's" are the Office of Special Counsel's "Political Activity and the State and Local Employee" found at www.osc.gov, and NAHRO's August 25, 2004 Guidance found at www.nahro.org/members/2004/Voter_Reg.pdf.

Given the serious sanctions that apply to both inadvertent and deliberate violations, it is critically important that PHAs **TRAIN** all of their staff on these issues. Be sure to confer with your local attorney on the implications of the Hatch Act and local law on voting initiatives in which your PHA may be interested in pursuing.