



HDLI MESSENGER

A monthly electronic publication of the
Housing and Development Law Institute
OCTOBER 2005 EDITION

WHAT'S HAPPENING AT HDLI?

FIRST ANNUAL GENERAL COUNSEL'S FORUM! PHAs won't want their General Counsel and/or outside attorney(s) functioning as GC to miss HDLI's first annual *General Counsel's Forum* in early 2006. The Forum will address common operational and legal issues facing GCs and provide for networking and problem solving. HDLI is forming its database for invitations. Please forward names and contact information to HDLI A.S.A.P.

SEE YOU SOON AT HDLI'S FALL CONFERENCE OCTOBER 10, 2005 IN CHICAGO!

HURRICANE KATRINA: HUD FORMALLY ISSUES WAIVERS

HUD has informally been approving waivers of certain regulatory requirements to aid the Katrina relief effort on a case-by-case basis. Finally, yesterday HUD's Office of Public and Indian Housing officially issued a notice entitled "Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Katrina Disaster Areas." 70 FR 57715 et seq. The effective date of the Notice is September 27, 2005.

It is important to note that the twenty-two waivers, temporary suspensions, and deferrals set forth in the Notice (collectively, "waivers") only apply directly to PHAs and Indian tribes which are located in official federal disaster areas. These groups need only notify HUD of their intention to utilize the waivers. HUD requires that such notification take place within 2 weeks of determining the need to utilize the waivers, or as soon as possible.

As for those PHAs and tribes not located in official federal disaster areas that are assisting in Katrina recovery and relief, they have to file written waiver requests pursuant to an expedited process detailed in the Notice in order to take advantage of the waivers. E-mails are encouraged.

The list of 22 waivers contained in the Notice is not exhaustive. PHAs may request waivers of other regulations by submitting a written waiver request by e-mail to PIH_Disaster_Relief@hud.gov, which HUD promises to respond to on an expedited basis.

A summary of ten key waivers provided in the Notice follows:

1. The requirement to **obligate capital funds** within 24 months of availability is extended an additional 12 months. The requirement to **expend capital funds** within 4 years of availability also is extended an additional 12 months;
2. **Exception rents** may be established up to 120% of FMRs; Even higher rents may be requested through the expedited process;
3. **Replacement housing funds**, previously only available for new public housing, can now be used for public housing modernization and homeownership;
4. **Total development cost and housing cost cap limits** for all work funded by the Capital Fund and HOPE VI are waived until issuance of new TDC levels;
5. **Revisions to HCV Program administrative plans** can be made *without board approval* if the board also waives the requirement;
6. The opening of **Section 8 waiting lists** need not be advertised in the media; publishing on the PHA website, at its offices, and in a voicemail message suffices;
7. **Bedroom occupancy standards** are waived if the family understands and consents;
8. Previously unapproved **vacancies** may be treated as approved if held, or used, for displacees;
9. **Downpayment assistance** for the purchase of homes may now be provided for up to 100% of the downpayment amount (up from 50%); and
10. **PHAS and SEMAP requirements** are deferred.

[Be sure to consult the Notice to review the full list of waivers.](#)