NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

July 2, 2015

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, D.C. 20410-0001
Via: www.regulations.gov

Re: Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs; Advanced Notice of Proposed Rulemaking Docket No. FR–5855–A–01

To Whom It May Concern:

On behalf of the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA), attached please find our comments on Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs; Advanced Notice of Proposed Rulemaking Docket No. FR–5855–A–01.

For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of more than 170 state and local affiliates, NAA is comprised of over 67,000 members representing more than 7.6 million apartment homes throughout the United States and Canada.

Thank you for the opportunity to comment.

Sincerely,

Douglas M. Bibby
President
National Multifamily Housing Council

Douglas S. Culkin, CAE
President
National Apartment Association

July 1, 2015

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 Seventh Street, S.W.
Room 10276
Washington, DC 20410–0001

Re: Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs; Advanced Notice of Proposed Rulemaking Docket No. FR–5855–A–01

Dear Sir or Madam:

On behalf of the undersigned organizations, please find our comments on the above-referenced Advanced Notice of Proposed Rulemaking. Our organizations represent thousands of firms involved in the multifamily rental housing industry, including the building, operation, and management of affordable rental properties. Several of our organizations are also affiliated with local associations that work with HUD field offices and public housing authorities (PHAs).

We strongly support the Housing Choice Voucher (HCV) program, which provides rental assistance and choice to over two million households who live in privately owned housing. We have long maintained that the FMRs are neither fair nor market, and appreciate attempts to better reflect in the FMRs the intricacies that exist in local real estate markets; however we are not convinced that zip codes represent real estate markets. We appreciate the publication of the advanced notice and having an opportunity to comment on the proposed rulemaking at an early stage.

Although we recognize that moving low income households to areas of opportunity may be a worthwhile objective, and we strongly support the principle of choice in the voucher program, we continue to have serious concerns about the use of SAFMRs to manage the HCV program, and have yet to see concrete evidence that the 50th percentile FMRs are not working as intended. Our concerns are centered on this lack of evidence that SAFMRs are more effective than alternatives, such as raising FMRs to the 50th percentile rents across a metropolitan area, as well as the potential negative impact on residents that choose to use their voucher in areas that experience a decrease in the payment standard. For these reasons, we strongly oppose HUD's decision to proceed at this time with rulemaking on SAFMRs, and we strongly urge the Department to reconsider its decision.

Lack of Evidence that SAFMRs are More Effective

The above-referenced advanced notice mentions limitations with the current 50th Percentile FMR Program. It particularly notes the relatively few areas that qualify for the program, and the tendency of areas to cycle in and out of the programs, leading to periodic losses of 50th percentile FMRs that disrupt both the HCV and other housing programs. However, these limitations are a function of the parameters HUD chose for the current 50th Percentile Program. The most obvious, direct and simple way to address these limitations is to alter the criteria by which areas attain and maintain 50th percentile status, rather than by introducing an entirely new level of geography into the process.

The advanced notice also states that “research indicates that 50th percentile FMRs are not an effective tool in increasing HCV tenant moves from areas of low opportunity to higher opportunity areas; specifically, it appears that much of the benefit of increased FMRs simply accrues to landlords in lower rent submarket areas in the form of higher rents rather than creating an incentive for tenants to move to units in communities with more and/or better opportunities.” We believe this statement to be incorrect. HUD, in support of the advanced notice cites a single document, ‘‘The Incidence of Housing Voucher Generosity’’ by Collinson and Ganong.

However, that document analyzes substantially different models for 50th percentile FMRs rents and SAFMRs. A few of the key differences are highlighted below:

Comparison of Models in Collinson and Ganong

	Effect of SAFMRs in Dallas	Effect of County/Metrowide 50th Percentile Rents
Definition of Quality	Building Age Building Type Number of Bedrooms	Building Age Building Type Survey Questions on Maintenance
Does it Analyze Voucher Holders Who Move?	Yes	No
Does in Analyze Neighborhood Quality?	Yes	No

The research by Collinson and Ganong never considers neighborhood quality or tenants who move under a metro-wide 50th percentile program. As a result, it has nothing to say about the effectiveness of that program in terms of stimulating moves or improving neighborhood quality for voucher holders.

The definitions of quality are also inconsistent enough to render cross-model comparisons of the impact on quality inconclusive, but there is an even more serious shortcoming in the treatment of quality in the Collinson and Ganong paper.

Although the Collinson and Ganong study uses two-stage models to control for endogeneity resulting from the discretion local housing authorities have in establishing payment standards, the paper ignores a more important source of endogeneity resulting from the discretion owners of rental property have in using rent increases to finance improvements that benefit their tenants. Specifically, the paper never explores whether rents and quality are causally related as follows:

Increased rental income→ increased spending on property maintenance & tenant services→ higher quality unit for tenants.

Particularly for subsidized properties in lower income neighborhoods where margins are thin, any increases in rents are very likely to be used for property maintenance, repair and improvements, or to finance operations that bring benefits to tenants, such as enhanced security. An analysis like Collinson and Ganong, that ignores this important question about a link between rent and quality and fails to consider what property owners do with revenue from rents, cannot be used to determine that property owners are benefitting more than tenants.

In addition to the above-referenced deficiencies, the Collinson and Ganong paper relies on one geography to base its findings (Dallas, TX). One of the major findings asserted is that there is a net zero effect on the number of vouchers and expenses for the housing authority. While this may be true for that specific geography, real estate markets vary tremendously throughout the country, and may not be true elsewhere. If a geography experiences a high number of moves to areas with higher payment standards, that could result in a fewer number of available vouchers when the need is greater than ever today.

Conclusion: The Collinson and Ganong paper fails to consider tendency to move or neighborhood characteristics for the 50th percentile FMR program, and therefore provides no basis for concluding that SAFMRs or any other program is superior to 50th FMRs according to these measures. In addition, the Collinson-Ganong conclusions about benefits accruing to property owners rather than tenants are not valid, due to their failure to consider a possible causal link between rental income and unit quality. Absent other research HUD can cite, we conclude there is currently no evidence that SAFMRs are more or less effective than 50th percentile FMRs.

<u>Criteria for Implementation Need to Consider Negative Effects on Remaining Residents and Investment in Communities</u>

We understand that moving low income residents to neighborhoods that are more desirable by some standards can produce positive outcomes for the movers. Conversely, lowering payment standards can also have a negative impact on residents who choose to remain in their neighborhood. While it may seem that people would move if given the opportunity to move to an area that features higher payment standards, there are many factors beyond rent that determines why a household chooses to remain in their current location, including proximity to employment, transportation choices, affordable childcare, or relatives living nearby. A sense of "place" or "neighborhood" is tied to more than their housing unit[1]. Multiple studies have referenced the fact that when given the opportunity to move to "better" neighborhoods, many assisted households choose to remain in their existing community[2].

If a current voucher holder chooses to remain in his or her neighborhood, and that neighborhood experiences a decrease in the payment standard as a result of the lower SAFMR without a corresponding reduction in the unit rent, that voucher holder's share of the rent will be much higher. The unintended consequence of this policy change could price the resident out of the voucher market in that neighborhood.

In many neighborhoods where there is an active effort to revitalize the community, a reduction in the payment standard may well hinder those efforts, resulting in disinvestment. This would have a detrimental effect on those that have no voucher and no ability to relocate whatsoever.

[1] Tester G, Ruel E, Anderson A, Reitzes D, Oakley D. Sense of Place among Atlanta Public Housing Residents. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*. 2011; 88(3).
[2] Holloway, Adrienne M. From the City to the Suburbs: Characteristics of Suburban Neighborhoods Where Chicago Housing Choice Voucher Households Relocated. *Urban Studies Research*. 2014.

Improving conditions within lower-income neighborhoods can and does also lead to positive outcomes. Recognizing this, many government programs and policies have sought to encourage investment in disadvantaged neighborhoods, and the HCV program is often part of this. For example, at the federal level, the Low Income Housing Tax Credit (LIHTC) program encourages residential investment in relatively disadvantaged neighborhoods by providing additional credit in Qualified Census Tracts (QCTs), and many states specifically require or encourage LIHTC investment in QCTs. Often this is part of a plan to attract commercial development into the same area. Moreover, the LIHTC program requires property owners to accept HCV tenants; and many LIHTC properties have a relatively high percentage of HCV tenants.

The result is a centerpiece of local jurisdiction's overall strategy of investment in a disadvantaged neighborhood supported by a combination of the LIHTC and HCV programs. A similar scenario can arise from combining HCVs with other federal programs, such as HOME Investment Partnerships or Community Development Block Grants.

Once again, we wish to reiterate that our concern about the SAFMR proposal is the potentially devastating impact payment standard reductions will have on residents that choose to remain in their current neighborhoods, both voucher holders and non-voucher holders. We are gravely concerned that HUD has not thoroughly considered the possible unintended consequences of implementing SAFMRs in neighborhoods which desperately need quality affordable housing and investment in neighborhood revitalization initiatives.

Conclusion: The SAFMR proposal is flawed because it fails to consider the possible effect on residents who choose to remain and the potential disinvestment in the neighborhoods that lose support when payment standards decline.

<u>Hold Harmless Principle</u>

For the reasons stated above, and based on the currently available research, we strongly oppose the imposition of SAFMRs at this time. If HUD nevertheless moves forward with rulemaking on the SAFMR proposal and allows payment standards to increase in higher-income "opportunity neighborhoods," HUD must be careful to do no harm to disadvantaged neighborhoods and the residents who chose to remain. We recommend that the existing FMRs serve as the SAFMR floor in neighborhoods that would otherwise experience reductions in HCV payment standards under HUD's proposal. We note that the HUD's June 2 Advanced Notice of Proposed Rulemaking already includes a hard floor for SAFMRs. Under "Methodology for SAFMRs," the Notice states:

> "To set the floor for SAFMRs in a metropolitan area, HUD compares two bedroom SAFMR estimates to the state nonmetropolitan minimum two bedroom rent for the state in which the area is located that is established as a floor for all FMRs. If the ZIP code rent determined using the rental rate ratio is less than the state minimum, the ZIP code rent is set at this state non-metropolitan minimum. SAFMRs for bedroom counts other than two-bedroom are based on the bedroom size relationships estimated for the metropolitan area. The final calculated rents are then rounded to the nearest $10."

Conclusion: If HUD feels it must move ahead with an SAFMR program it should establish a floor at the current FMR, holding areas harmless and not allowing the payment standard to decline anywhere simply due to a change in methodology.

Success Standard FMRs

The advanced notice specifically asks if Success Rate Payment Standard regulations (24 CFR 982.503(e)) should continue to use 50th percentile FMRs or if these areas would also benefit from operating under SAFMRs.

Based on our concerns about SAFMRs as described above, we strongly recommend that Success Rate Payment Standards continue to use 50th percentile FMRs.

Conclusion

We urge HUD to retreat from this effort until such time that sufficient data and evidence are available from multiple sources and jurisdictions to support the removal of the Success Rate Payment Standard in favor of Small Area FMRs.

Based on the advanced notice of prosed rulemaking and a previous article, "The Small Area FMR Demonstration", found in HUD's 2013 *Cityscape* (Volume 15, Number 1), the current SAFMR demonstration was not fully operational until September 2014, and it runs through 2016. HUD should first publicize the demonstration's findings, before moving forward to the proposed rule phase. Industry stakeholders should have an opportunity to review the demonstration's findings, ahead of the proposed rule's public commenting period.

We greatly appreciate the opportunity to comment on the Advanced Notice of Proposed Rulemaking for using SAFMRs. If you have any questions, please contact Paul Emrath pemrath@nahb.org or Michelle Kitchen mkitchen@nahb.org at National Association of Home Builders.

Sincerely,

Council for Affordable and Rural Housing
Institute of Real Estate Management
National Affordable Housing Management Association
National Apartment Association
National Association of Home Builders
National Association of Housing Cooperatives
National Leased Housing Association
National Multifamily Housing Council