Via Email

June 2, 2023

Brenda Donald
Executive Director
c/o Lorry Bonds, General Counsel
DC Housing Authority
1133 N. Capitol Street NE, Suite 201
Washington, DC 20002
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PublicationComments@dchousing.org

Re: Comments to Proposed Rulemaking Amending Title 14: Admissions and Continued Occupancy Plan

Dear Director Donald and Ms. Bonds:

As you know, Disability Rights DC at University Legal Services (DRDC) is the designated protection and advocacy agency that represents DC residents with disabilities to promote their civil rights to equal access to programs, services and facilities. We, along with AARP Foundation Litigation and Terris, Pravlik, & Millian LLP, are class counsel in *Brown v. District of Columbia. Brown* is a class action under Title II of the ADA and Section 504 of the Rehabilitation Act on behalf of DC residents in nursing facilities who seek transition assistance from the DC government to move back to the community with the Medicaid long-term care services they need.[1] This letter is to express grave concerns about DCHA's proposed regulations amending Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), published in the DC Register on May 5, 2023 and effective immediately on April 12, 2023.

DCHA's Proposed Rulemaking Does Not Support *Olmstead* Implementation

District residents with disabilities overwhelmingly prefer to live independently in integrated community settings as is their right under the integration mandate of Title II of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Supreme Court decision in *Olmstead* v. *L.C.*, 527 U.S. 581 (1999). *See also* 28 C.F.R. § 35.130(d). Unlike nearly every other state, there are available, unused Medicaid EPD waiver slots for up to 24-hours a day of personal care aide services to serve individuals with physical disabilities in the community instead of segregated nursing facilities. But people remain segregated in institutions such as nursing facilities because they do not receive the transition assistance they need,

[1] DRDC is also plaintiffs' counsel and plaintiff in *LR v. District of Columbia*, a class action lawsuit under Title II of the ADA and the Medicaid statute on behalf of DC youth with significant mental and behavioral health challenges seeking intensive community-based services to prevent institutionalization.

including assistance to apply for, locate, and lease subsidized housing. From 2018 to 2020, even while the waiting list was closed, 23.1% of individuals (or 31 people) in nursing facilities who had transitioned to the community from nursing facilities returned to DCHA public housing. Consequently, DCHA's public housing policies and procedures are vitally important to accomplishing the goals of *Olmstead* to help people with disabilities live independently with the Medicaid long-term care services they need.

Because people with disabilities have a right to live in the community instead of institutions and are able to do so with DC Medicaid long-term care services, it is very troubling that DCHA has defined the family in Section 6201.46 as: "[a]n individual confined to a nursing home or hospital on a permanent basis is not considered a family member." People in nursing facilities have a right to not be unnecessarily confined in institutions like nursing facilities or hospitals. Sections 6501.10 and 6501.6 are also inconsistent with Title II of the ADA and *Olmstead.* The individual with the disability, not a "medical professional" or "the family" as indicated in Section 6501.10, has a right to decide if they wish to continue to reside in a nursing facility or otherwise oppose community placement. Moreover, people in nursing facilities may change their mind over time about their preference for community living. This is often because the individual may not know that they have a right to live in the community and may need education to understand their options on receiving long-term care services and supports before they can make a meaningful choice on if they want to live in the community. For these reasons, the concept of a "permanent basis" is inappropriate to be included in these regulations because the family member may decide to leave the nursing facility at a later date.

Moreover, an individual in a nursing facility or other institution may be absent from their public housing unit for longer than 60 consecutive days and are not "permanently absent" from the program as reflected in Sections 6201.41 and 6501.6 (DCHA's Permanent Absence Policy). This 60-day limitation is punitive and does not allow the individual enough time to transition back home with the services they need. DCHA should adopt in these regulations flexible rules for individuals who are temporarily absent from public housing due to medical reasons. This should include allowing the public housing resident extended absences of a minimum of 180 days or longer for extenuating circumstances consistent with the HUD Handbook for Multifamily Housing Programs.[2] Relatedly, DCHA must make clear in these regulations that applicants on the waiting list will not be removed from the waiting list because they currently are residents in a nursing facility or other institution. While we understand that DCHA will not count the individual as a family member for purposes of an annual income determination[3] while they are temporarily in the facility, DCHA must remove and/or revise these provisions accordingly to allow nursing facility residents to maintain their status as family members and to allow them to move back into public housing consistent with their rights under federal law.

DRDC is also concerned by Sections 6201.33 and 6201.32 which state that a live-in aide cannot remain as a guest pending DCHA's approval. The live-in aide should be allowed as a guest pending DCHA's determination because aides are necessary for the individual to avoid unnecessary institutionalization and to maintain their health and safety. DCHA also includes the

[2] HUD Handbook 4350.3, Occupancy Requirements of Federally Subsidized Multifamily Housing Programs (2013), part 6-21 (B)2. House Rules, available at https://www.hud.gov/sites/documents/43503HSGH.PDF.
[3] It's important to note that individuals in nursing facilities only receive a monthly Personal Needs Allowance for institutionalized residents, which increased to $100 effective February 1, 2023. 42 C.F.R. § 435.832(c)(1).

broad categories in which it can disapprove a live-in aide under Section 6201.56, including vague references to a criminal history and unpaid debts to DCHA. DCHA should include specific criteria that are legitimately related to the safety or security of the family or other tenants. DCHA must remove or revise these provisions accordingly.

In the Statement of HUD on the role of housing in accomplishing the goals of *Olmstead*, which is applicable to public housing agencies (PHAs) like DCHA[4]:

> HUD encourages public housing agencies and other HUD-assisted housing providers to work with state and local governments to provide integrated, affordable and accessible housing options for individuals with disabilities who are transitioning from, or at serious risk of entering, institutions or other segregated settings. For example, public housing agencies, pursuant to PIH Notice 2012-31, and other recipients of HUD assistance may offer *certain preferences that will enable individuals with disabilities to transition from institutions more quickly* or enable an individual at serious risk of institutionalization to remain in integrated, affordable housing in the community."

Id. at 7 (emphasis added). For these reasons and the reasons outlined below, DCHA should not rely on a lottery system for applicants with mobility disabilities. Instead, DCHA should maintain the disability preference for public housing by immediately going down the waiting list when a UFAS unit is vacant and identify applicants from a selection pool of at least 100 who have indicated they have mobility disabilities.[5] This will promote individuals with disabilities to transition more quickly from institutions and help minimize the risk that people without mobility disabilities will be placed in UFAS units via the lottery. DCHA will exacerbate the risk of placement of people who do not need the accessible features in UFAS units if it allows each property to make the unit offers and placement decisions.

HUD guidance[6] also encourages affirmative marketing to individuals transitioning from institutional care about the availability of the affordable housing units. But Section 6302.11 and 6302.14 are very vague about what outreach DCHA will provide to ensure that DCHA has enough applicants on the waiting list to fill vacancies and to assure that DCHA is affirmatively furthering fair housing and complying with the Fair Housing Act. The details that are provided in 6302.14 do not reflect meaningful outreach that will reach people isolated in facilities (e.g. press releases, flyers to other agencies, developing unspecified partnerships with organizations that

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[4] U.S. Department of Housing and Urban Development, Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead, available at https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF.

[5] *See Young v. District of Columbia*, Consent Order, 1:01-CV-00650 (D.D.C. February 14, 2002).

[6] U.S. Department of Housing and Urban Development, Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead, at 10, available at https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF; *See also* U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (FHEO) Guidance on Compliance with Title VI of the Civil Rights Act in Marketing and Application Processing at Subsidized Multifamily Properties, April 21, 2022, available at https://www.hud.gov/sites/dfiles/FHEO/documents/HUD%20Title%20VI%20Guidance%20Multifamily%20Marketing%20and%20Application%20Processing.pdf.

serve people with disabilities). DCHA should amend its regulations to specifically describe how it will engage in affirmative marketing and outreach activities, including to nursing facility residents and other people with disabilities in other institutions and in the community about the availability of UFAS units, the reopening of the public housing waiting list, and the waiting list application procedures when navigating the process with a disability. DCHA should also revise the regulations to indicate that individuals in institutions who were on the waiting list prior to its closure and wish to lease vacant UFAS units and/or wish to be prioritized on the site-based lists can request or have someone request on their behalf that DCHA hold an eligibility event at their facility. This will help remedy the inaccessibility of the MLK library events or similar events in the future for individuals with mobility disabilities and those individuals in institutions.

Chapter 63, Section 6301: The Application Process

DCHA should revise Section 6301.5 to make clear that DCHA must also take affirmative steps to prevent discrimination in the application process and to ensure that the application process is fully accessible to people with disabilities as required under federal law. 24 C.F.R. Part 8; 28 C.F.R. § 35.130(b)(7). This includes affirmative steps to modify procedures or provide reasonable accommodations. This includes providing effective communications for applicants who need ASL interpretation or alternative formats to complete the application and modifications to application procedures to make the application process accessible to people with disabilities.

Chapter 63, Section 6302: Managing the Waiting List and Removal of Applicants from the List

Consistent with HUD guidance[7], DCHA should provide more advanced 60-day notice prior to reopening the waiting list than the at least 10-day notice in Section 6302.10. DCHA should also remove any erroneous references in the proposed regulations, such as in Section 6302.13(c), that suggest that outreach efforts that "prefer" people with disabilities or other protected classes should be avoided in compliance with the "fair housing requirements." That is not correct.

As we discussed on May 10, 2023, some *Brown* class members and other DRDC clients with mobility disabilities in the community have been waiting at least a decade, but many longer, for DCHA to provide affordable, UFAS accessible housing. DRDC is seriously concerned with how DCHA is changing its regulations to purge the waiting list. Specifically, Sections 6302.16 and 6302.24 require that a family on the waiting list must inform DCHA in writing within ten (10) business days of any changes and that DCHA will remove from the waiting list any applicant if they do not respond to DCHA outreach within thirty (30) calendar days. These changes will disproportionately impact DC residents with disabilities in institutions who were on the waiting list before it closed in 2013 as well as new applicants in institutions who seek to transition back to the community. DCHA should not require such a short timeline of 10 days for individuals to inform DCHA of changes. Individuals with disabilities in institutions and in the

[7] U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (FHEO) Guidance on Compliance with Title VI of the Civil Rights Act in Marketing and Application Processing at Subsidized Multifamily Properties, at 4, April 21, 2022, available at https://www.hud.gov/sites/dfiles/FHEO/documents/HUD%20Title%20VI%20Guidance%20Multifamily%20Marketing%20and%20Application%20Processing.pdf.

community will need flexible timelines to update their information and need assistance to respond to DCHA to update their contact information and to submit documents needed to determine eligibility. HUD recommends that reasonable accommodations in the application and admissions process of PHAs include extending limited application periods and permitting flexible application procedures.[8] We urge DCHA to amend the regulations to adopt more flexible procedures and timelines. We also urge DCHA to continue utilizing an "inactive" status for any applicants who do not respond to DCHA's outreach within timelines.

Although we support DCHA including in Section 6302.19 the requirement that "DCHA must[9], upon the family [with a disability's] request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation" if they failed to respond due their disability, this language does not go far enough to help prevent discrimination against people with disabilities. The condition in Section 6302.19 that that reinstatement on the waiting list will be provided if the person with the disability did not respond to DCHA's request for information or updates because of the family member's disability is vague and too narrow of criteria to require for this reasonable accommodation to be granted. As mentioned above, there may be other factors outside the individuals' control that is a barrier for persons with disabilities' to timely respond to DCHA outreach beyond just the nature of their disability, including factors related to their institutionalization or neglect by the providers responsible for assisting them in this process. Accordingly, DCHA should revise its regulations to allow *any*[10] family (with or without disabilities) who contacts DCHA after the deadline to be restored to its prior place on the waiting list.

DRDC is also concerned that DCHA will not offer an informal hearing to a family that is removed from the waiting list for failure to respond to DCHA's outreach under Section 6302.27. For the reasons outlined above, we urge DCHA to provide an opportunity for an informal hearing when a resident is removed from the waiting list for failure to respond. It is also unclear what DCHA means by a "reasonable period of time to respond" in Section 6302.27.

DRDC is also concerned that DCHA will also remove an applicant from the general public housing waiting list and/or the Reasonable Accommodation Waiting List for transfers to UFAS units if they refuse two offered public housing units under Sections 6402.4, 7405.6, 7405.7. These Sections seem to conflict with Section 6402.7, which states that if an elderly or disabled family declines an offer for designated housing, that refusal "must not adversely affect the family's position on or placement on the public housing waiting list." DCHA staff indicated in our meeting that DCHA will count against an applicant any refusal of a vacant UFAS unit even if that applicant *did not apply* to be added to that properties' site-based waiting list. We know that some families may refuse units offered or decline to apply for properties' site-based waiting lists because the units are simply unfit for human habitation, safety concerns, or the units

[8] U.S. Department of Housing and Urban Development, Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead, at 10-11, available at https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF.

[9] Section 6302.28 confusingly says that DCHA only *may* reinstate a family due to circumstances outside the family's control as a result of the family member's disability in conflict with Section 6302.19 which states that DCHA *must* reinstate that family.

[10] To be equitable to other DCHA applicants, DCHA should not limit the reinstatement process to the narrow categories of applicants listed in Section 6302.28. There are many reasons that someone may need to be reinstated due to factors outside their control that are not limited to disability-related factors.

do not accommodate their disability. For these reasons, a person with a disability should not be automatically removed from the general waiting list or the Reasonable Accommodation transfer waiting list because they rejected two offers of accessible units. If DCHA maintains this requirement, it should at least allow the applicant to show good cause to prevent removal under the existing standard for the voucher program.

Chapter 63, Section 6303: Applications, Waiting List and Tenant Selection

As described above, the proposed regulations will interfere with DCHA's processes to ensure that UFAS units are leased to people who use wheelchairs and need the features of those units. DCHA's proposed waiting list procedures reflected in this notice do not align with to our agencies' collaborative efforts[11] toward maximizing access by people with disabilities to wheelchair-accessible public and subsidized housing. Of particular concern is that the proposed regulations remove DCHA's waiting list disability selection preference for public housing. Specifically, Section 6303.7 states that "there are no selection preferences for the DCHA public housing waiting list. Applicants are selected based upon date and time of application and lottery." Before issuing these emergency and proposed amendments, DCHA granted a preference to tenants and applicants with physical disabilities who seek UFAS accessible public housing[12] and maintained, within the general waiting list, a selection pool of at least 100 qualified public housing applicants solely for the wheelchair-accessible public housing apartments. The purpose of this selection pool is to minimize the waiting time for placement of those applicants who require accessible housing. When there is a UFAS accessible unit available, DCHA would go down its waiting list to look for tenants or applicants who have indicated they have mobility disabilities. This existing process is consistent with a HUD requirement that DCHA must take reasonable, nondiscriminatory steps to lease those wheelchair accessible public housing units to individuals that need those accessible features. 24 C.F.R. § 8.27(a).

We urge DCHA to revise their regulations to maintain this existing preference selection process for people with disabilities who need UFAS accessible units or other accessible units and clarify that people with mobility disabilities are not restricted to specific developments on the site-based waiting lists. These changes are critical because the applicant will not know when a UFAS unit will become vacant at any particular development, and as described above it will help reduce waiting time for transfers and the risk of inappropriate placements. During our meeting on May 10, 2023, you indicated that DCHA will provide the waiting list applicant with information about the UFAS features of each development. You also informed us that when there is a vacant UFAS unit at a particular development and no one selected from the site-based lottery needs a UFAS unit, then DCHA would go down its waiting list to look for applicants who need the features of that UFAS unit based on date and time of application. Using a lottery system

[11] As you are aware, in 2001, DRDC litigated a class action case, *Young v. District of Columbia*, that culminated in an agreement under which DCHA built or renovated 565 fully accessible public housing units. The case was successfully concluded in 2015 after DCHA completed the accessible units and revamped the application process to ensure placement of people who use wheelchairs in the accessible units.

[12] DCHA's website still indicates this is the DCHA policy: "Although there is a waiting list for housing in the District of Columbia, preference is given to persons with mobility impairments, particularly those who serve as the head of a household. When there is a handicapped-accessible unit available, DCHA will go down its waiting list to look for applicants who have indicated they have mobility impairments." District of Columbia Housing Authority, *People with Disabilities*, available at https://www.dchousing.org/wordpress/customers/people-with-disabilities/ (last accessed on May 31, 2023).

to trigger the lease up process for UFAS units does not address the need for an adequate pool of applicants who need those UFAS features and delays the provision of affordable housing to people with disabilities.

Although we do not agree that a lottery process should be used at all to lease UFAS units to people who use wheelchairs, the policy and procedures for leasing UFAS units articulated in this meeting is not outlined in these proposed regulations. The DCHA ACOP proposed on February 14, 2023, indicates that when selecting applicants from the waiting list, it will offer the unit to the applicant who requires the accessibility features based upon date and time of the application, but this process is not included in the proposed regulations and conflicts with the procedure articulated in our meeting that DCHA will only take that step after the lottery does not result in any applicants who need the accessibility features of the vacant unit(s). The failure to outline this procedure renders this public notice deficient and reflects a lack of transparency. DCHA also failed to follow the proper procedures before it changed the current preference system in place. 24 C.F.R. § 960.202(c); 24 C.F.R. § 960.206; 24 C.F.R. § 903.17. At a minimum, DCHA must delay changes to the preferences until it obtains public comment. DCHA should also first outline detailed policy regarding its waiting list procedures to lease UFAS units, the information DCHA will provide to applicants about the UFAS features at each development, and clarity on whether each development will make placement decisions to help ensure that UFAS units are leased to those who need the features of those units.

Chapters 61 and 74: UFAS Inventory and Reasonable Accommodation Policies and Procedures

Chapter 61 and Chapter 74 must accurately reflect DCHA's obligations and participant rights under federal and local law. Of particular concern is that DCHA failed to propose regulations that outline its affirmative obligation to have an inventory of UFAS accessible units available for persons with disabilities under 24 C.F.R. §§ 8.22, 8.23 and 8.25. In the District, 6% of DCHA's total inventory (traditional and mixed finance developments) must be UFAS accessible under a Voluntary Compliance Agreement with HUD.[13] Of course, we urge DCHA to take steps so that its inventory of UFAS accessible units far exceeds the minimum 6%. At a minimum, these regulations should outline DCHA's obligations concerning its inventory of accessible units.

DCHA failed to include in Section 6101.1 its obligations to comply with the Fair Housing Act and the DC Human Rights Act (despite it being referenced in Section 6103.3). The proposed regulations in Section 6103.3 fail to include DCHA's affirmative obligation to provide reasonable modifications in policies, practices, and/or procedures when the modifications are necessary to avoid discrimination on the basis of disability under Section 504 of the Rehabilitation Act and the ADA. 24 C.F.R. Part 8; 28 C.F.R. § 35.130(b)(7); *see also* 24 C.F.R. § 100.203. DCHA also needs to clarify that these modifications include DCHA providing and paying for structural modifications to existing premises and community areas under Section 504 of the Rehabilitation and the ADA. *Id.* The definition of a reasonable accommodation in Section 6103.5 is too narrow. When considering all applicable federal laws, a reasonable accommodation is more accurately described as: a change, modification, exception, alteration, or adaptation to a

[13] U.S. Department of Housing and Urban Development, Voluntary Compliance Agreement, News Release: *HUD Requires DC Housing Authority To Make More Than 500 Units Available For People With Disabilities*, November 30, 2001, available at https://archives.hud.gov/news/2001/pr01-120.cfm.

policy, practice, program, service, housing unit, or facility that provides a person with a disability an equal opportunity to participate in, benefit from, and to use and enjoy a dwelling, including public and common spaces. DCHA should incorporate language from HUD's prior guidance in Notice 2010-26 (HA) regarding DCHA's obligations to provide any other reasonable accommodation up to the point that would not result in an undue financial or administrative burden and/or constitute a fundamental alteration of the program.[14]

While DCHA can encourage in Section 6102.8 individuals to file a housing discrimination complaint or grievance with DCHA using its internal procedures, it must not be required. Section 6102.9 fails to state that DCHA must advise participants and applicants that they may file a housing discrimination complaint with HUD (under the Fair Housing Act and Section 504), DC OHR (under the DCHRA), and/or the DOJ (under the ADA, Section 504, and the Fair Housing Act) and the timelines of each agency for filing those complaints. DCHA purports in its notice to be amending these regulations to "address[] the issues HUD identified that DCHA should immediately act upon . . ." Regarding the reasonable accommodation process, HUD found that "DCHA is not in compliance with its ACOP and HUD regulations on Reasonable Accommodation requests, transfers, and tracking."[15] The proposed regulations in Section 6103 lack specifics to "clearly define how applicants and residents are informed about the status of their requests" consistent with HUD's corrective action.[16]

DCHA should revise these regulations to state that it will inform applicants that it will provide reasonable accommodations within a *reasonable* time and details on how it will do so. We also urge DCHA to include language in Section 6103.20 that DCHA will specifically state: (1) the projected, reasonable timeline for provision of the accommodation; (2) that DCHA will notify the applicant or resident in writing of the projected, reasonable timeline for implementation of the accommodation; (3) that DCHA will routinely update the applicant or resident of the status of their accommodation or the reason(s) for any delay in provision; and (4) that DCHA will engage in a meaningful interactive process with the participant regarding the family's reasonable accommodation needs. DCHA should also include language concerning the projected timeline for transferring tenants or applicants to vacant UFAS units.

Section 6103.4(b) should explicitly state the title of the contact at DCHA for requests for reasonable accommodations/modifications such as the ADA/504 coordinator and provide an email as well as their phone number, including a secondary point of contact if the ADA/504 coordinator is not available or unresponsive. Additionally, DCHA should also include language that makes clear that DCHA will reimburse residents for any reasonable accommodation modifications made at the resident's expense due to DCHA's prior failure or refusal to make reasonable modifications. As DCHA is aware, HUD required this in its Voluntary Compliance Agreement between HUD and DCHA executed on November 30, 2001.[17]

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[14] U.S. Department of Housing and Urban Development, NOTICE PIH 2010-26 (HA), July 26, 2010, at 6, available at https://www.hud.gov/sites/documents/DOC_8993.PDF.

[15] U.S. Department of Housing and Urban Development, District of Columbia Housing Authority (DC001) Assessment, September 30, 2022, at 28-29, available at https://oag.dc.gov/sites/default/files/2022-10/DCReview_Final%209302022%20%281%29.pdf.

[16] *Id* at 28.

[17] U.S. Department of Housing and Urban Development, Voluntary Compliance Agreement, News Release: *HUD Requires DC Housing Authority To Make More Than 500 Units Available For People With Disabilities*, November 30, 2001, available at https://archives.hud.gov/news/2001/pr01-120.cfm.

Additionally, the proposed regulations should provide more details regarding the types of reasonable accommodations for applicants and residents with visual disabilities, including in Section 6103.7(b), which only describes "large-print" forms. DCHA should add language in Section 6103.7 that transferring individuals who use wheelchairs to UFAS accessible units or transferring to another accessible unit that can be modified is another example of a reasonable accommodation. The regulations should describe that any materials provided to people with visual disabilities will be available in alternative formats such as braille, large text, audio formats, and screen readable supported formats. The regulations should also be revised to include that any materials will also be provided in formats that are easily understood and use plain language.

Moreover, DCHA needs to clarify its language around service and assistance animals under Section 7001 and Section 6103.7(k) to make clear that emotional support animals may also be a reasonable accommodation and reference all applicable laws. Specifically, the Fair Housing Act also allows for emotional support animals as a reasonable accommodation. But Section 7001.4 confusingly only cites to the ADA to define a service animal. The DOJ in its preambles to Title II and Title III of the ADA has made clear that PHAs "may not use the ADA definition [of "service animal"] as a justification for reducing their FHAct obligations."[18] DCHA also needs to revise Section 7001.11, which incorrectly says that the interactive process is "encouraged" instead of required. DCHA must also make clear that the interactive process must be "meaningful."

The proposed ACOP regulations do not fully incorporate the effective communication requirements in 24 C.F.R. § 8.6, which includes an obligation to furnish auxiliary aids and services such as qualified sign language interpreters. For example, DCHA must clarify in the regulations that video remote interpreting services will also be available to provide effective communication and immediate access to qualified ASL interpretation services. The proposed regulations also indicate DCHA will rely on outdated technology like TTY in Section 6103.23(a). The FCC has adopted rules to acknowledge that TTY (text telephone) is outdated and unreliable. The adopted rules facilitate the transition from TTY technology to real-time text (RTT) communication for people who are deaf or have other hearing disabilities.[19] DCHA should clarify in these regulations that it will provide access to RTT communication.

Please let me know if you would like to discuss these comments in more detail.

Sincerely,

Lyndsay Niles
Managing Attorney

[18] U.S. Department of Justice, Americans with Disabilities Act Title II Regulations, October 11, 2016, available at https://www.ada.gov/law-and-regs/title-ii-2010-regulations/; U.S. Department of Justice, Americans with Disabilities Act Title III Regulations, March 8, 2012, available at https://www.ada.gov/law-and-regs/title-iii-regulations/.

[19] U.S. Federal Communications Commission, *Real-Time Text*, available at https://www.fcc.gov/real-time-text.

cc: Robert White, Chairperson, Committee on Housing
Angela Fowlkes, Chief of Staff, Committee on Housing