The Continuing Evolution of RAD

Flexibility Is a Key to Success

By Mark Olshaker

"RAD has been the most positive experience I've had working with HUD," states Richelle Patton, president of Collaborative Housing Solutions of Decatur, GA, a consulting firm that specializes in creative problem-solving to develop affordable rental housing. She specializes in HUD's Rental Assistance Demonstration program, has been involved with around 18,000 RAD unit conversions and has served as a RAD transaction manager for HUD.


Richelle Patton

One of the most important considerations for the program—and perhaps a cause for its widespread embrace—is right in the title. Patton says, "It offers great flexibility because it's still a demonstration program. The HUD people, who have been terrific to work with, say it's like building the airplane and flying it at the same time."

"What I really love is it's so flexible," Kathie Soroka agrees. She is counsel to the affordable housing practice group in Nixon Peabody's New York office and previously served as senior counsel to HUD's general counsel during the Obama Administration and helped develop the RAD program. "HUD is being creative, trying to do whatever they can to preserve this very valuable public asset. And we need a flexible program to respond to different geographical areas and different areas of concern."


Kathie Soroka

Soroka, perhaps surprisingly, even looks on the lack of new government funding as a "blessing in disguise. The biggest problem is that we weren't given any new money. But because of that, HUD has to be flexible and creative in managing competing priorities and interests."

RAD was created as a revenue-neutral program to help public housing agencies (PHAs) preserve and improve public housing properties and address the more than $20 billion backlog of deferred maintenance needs. It was enacted as part of the Consolidated and Further Continuing Appropriations Act of 2012 and started with a target of 60,000 units. It has steadily increased to a current cap of 455,000 units, with 131,000 already closed, generating about $9 billion in hard construction costs. "With no new funding, leveraging that much in construction costs is just phenomenal," says Soroka.

And as Patton notes, "The door is still open for RAD applications. HUD is encouraging PHAs to be part of the program." RAD allows PHAs to leverage public and private debt and equity to reinvest in the public housing stock. It also gives owners in three legacy programs—Rent Supplement, Rental Assistance Payment and Section 8 Moderate Rehabilitation (Mod Rehab)—an opportunity to participate and facilitate the financing of improvements. Apartment units move to a Section 8 platform with a long-term contract that must be renewed in perpetuity so that they remain affordable to low-income households.

"This is one of the most vital considerations," Soroka says, "because we're not building more earth, so we have to use what we've got."

According to Thomas R. Davis, director of HUD's Office of Recapitalization, "RAD is proving to be really successful in both components. People are doing really good work. As long as we continue to honor our core principles, we want to create an environment where the regulatory flexibility drives improvements to affordable housing. We are constantly looking for ways to make this work better and maximize local impact."


Thomas Davis

RAD for PRAC

A newer revision includes a RAD for PRAC, the Project Rental Assistance Contract that was instituted in 1990 into HUD's Section 202 Supportive Housing for the Elderly program. Since then, more than 125,000 PRAC-subsidized apartment units have come online, and now PRAC operators can shift their properties into Project-Based Rental Assistance (PBRA) and Project-Based Voucher (PBV) programs within the RAD framework and secure renovation and rehabilitation financing through Low Income Housing Tax Credits, mortgage debt and other soft funding. The

Evolution of RAD, continued on page 16

Evolution of RAD, continued from page 15

first closings for PRAC properties are scheduled for spring.

"There has been a great level of interest in RAD for Section 202 PRACs," says Davis. "We currently have 5,000 units in the pipeline at this point, with closings beginning late Spring or early Summer, perhaps May or June. We are particularly pleased with the level of interest and awareness of RAD for PRAC in the Section 202 community."

"I think everybody shares the same goals," says Soroka, "which is to increase housing opportunities for our most vulnerable populations. And it has had a lot of success at that. But we're really just beginning; the guidance wasn't finalized until September. How do you plan for annual renewals if you don't have full liberty yet to set where rents will be? I think it will be a similar evolution as Mod Rehab, and as deals progress, we'll see what works and what doesn't work."

Revision 4 and Beyond

As Soroka noted, RAD Notice Revision 4 was published in September 2019. Among its major provisions was the ability for PHAs to coordinate together to share resources and projects. This is intended to facilitate stronger RAD conversions. "That and RAD for PRAC are two of the biggest features," says Patton.

"RAD is giving housing partner teams tools to find the best ways to serve their communities for the long term," Davis says. "PHAs with more experience are thinking about how they can be working with other PHAs with less experience to bring them along. A lot more people are working with each other in partnership on public housing strategies than before RAD."

Revision 4 also standardizes resident rights when RAD is mixed with non-RAD PVB. It offers greater flexibility for PHAs converting portfolios of public housing by streamlining the portfolio and multiphase awards. There is some new rent flexibility for certain conversions in Opportunity Zones and improved use of RAD and Section 18. And the "Concept Call" is introduced prior to financing plan submission.

For the full enumeration of the latest revisions, go to: https://www.hud.gov/sites/dfiles/Housing/documents/RAD_PH_Rev4_Sec1_Training.pdf.

"All of this is giving PHAs a new tool in their very limited toolbox," Patton comments. "It removes restrictions on both debt and equity, offers a longer term approach to repairs and replacement reserves, and I think it makes both properties and agencies themselves more sustainable and gives them the opportunity to partner with mission-driven nonprofits, as well as forcing them to think about how to operate over time."

She points out that 44 percent of RAD projects are not using any new financing. About 36 percent are using tax credits; eight percent are nine percent credits and 28 percent are four percent.

"Other newish developments include the Fiscal 2021 Budget request," Davis outlines, "with tweaks to RAD to make public housing conversions work better. The budget request also proposes to add two additional portfolios as eligible for RAD: the Senior Preservation Rental Assistance Contracts, which is a very small program, and the Section 811 portfolio [subsidized rental housing to allow persons with disabilities to live as independently as possible]."

Evaluation and Feedback

HUD's Office of Policy Development and Research is launching a new follow-up evaluation," Davis says. "They're looking at Choice-Mobility – the impact of this new option and how it's being implemented. They're looking at the longer-term financial stability of RAD conversion properties, and they're looking at the asset management approaches and infrastructure in place for RAD properties and other affordable housing properties to promote best practices and long-term preservation of these assets.

"We are definitely paying attention both to the formal evaluations and the informal feedback. We want to know what have people experienced in the deals to date, so we can know what we have to change. And there are also some things we're working on to try to smooth the bumps in the process. There are some administrative issues, like onboarding to the Section 8 platform. We're giving more technical assistance and guidance as needed, but change can be difficult."

PHA Repositioning Options

One concept that just about everyone in the industry subscribes to is that there is no one-size-fits-all – for individuals projects, tenants, investors, lenders or housing authorities. Therefore, experts, like Soroka recommend comparing strengths, benefits and drawbacks of each type of applicable program. In a valuable exercise, Soroka

Evolution of RAD, continued on page 18

Evolution of RAD, continued from page 16

has compared options for PHAs to reposition their properties under RAD, Section 18 (Demolition and Disposal), and Section 22 (Streamlined Voluntary Conversion) programs. Among the main takeaways: Under RAD, all PHAs qualify, it's a flexible process with flexible options and transfer assistance, but the rent levels are low; 70 percent of fair market value. Section 18 provides tenant protection vouchers (TPVs) and can go project-based at 110 percent of fair market value, but the property must qualify, obsolescence is a difficult threshold to meet, and TPVs are only available for occupied units. Section 22 also offers TPVs and it is potentially faster and easier to qualify for than Section 18. On the other hand, only PHA's with 250 units or fewer can qualify, it is difficult to project base, and tenants have the right to stay in their units with tenant-based vouchers.

Soroka further compares the processes for applying for each program, the tenant rights attached, and the overall conclusions. "You're not just using one tool," she says. "For example, under recent HUD guidance, if 75 percent of a project is going through RAD and doing substantial rehab or new construction without using nine percent LIHTCs, the remaining 25 percent can go through Section 18. PHAs with five units or fewer, and non-contiguous buildings with four or fewer units each also qualify under Section 18." Of course, there are other details, so each project must be carefully vetted.

Positives and Negatives

Tom Davis is candid about the positives and negatives of the program. On the plus side, he says, "We are very happy with the public housing side; really pleased with the creativity the PHAs have been bringing to the effort. We're pleased with the way the program has been embraced by the capital markets and the way the industry has really adapted to RAD to make these deals work."

But he also concedes, "There is always the question of finding enough resources to do the work the properties need. The program encourages owners and operators to use the resources they have as flexibly as possible, but certainly there is a resource constraint. And certainly, PHAs are submitting more tax credit requests—both four percent and nine percent—than before, which further strains resources available for affordable housing generally."

In sum: "Most public housing has been a little locked-in to a specific real estate portfolio for the last 30 to 40 years. Communities are now asking, 'How do we deliver the mission of affordable housing for the next 20, 30 or 40 years? What is the right decision for the next 40 years?' And they're using RAD as a vehicle for those discussions. They're asking, 'Is what we have in our portfolio the right unit mix in the right property?'"

And as Kathie Soroka says, "I would personally love it if we would fund public housing hand over fist and didn't need RAD. But we're balancing competing interests and competing tensions. The PHAs have to manage competing priorities and intentions to reach the best outcomes possible. Among these is bringing in private market forces without bringing in privatization, leveraging capital and incorporating rules for LIHTC; a lot of different concerns. So, if there is something that could make your deal work, ask for it, because maybe we could do it!" TCA

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