

**Testimony of Geraldine Collins  
President, National Alliance of HUD Tenants**

**Before the House Financial Services Committee  
Subcommittee on Housing, Community Development and Insurance**

**Hearing: Safe and Decent? Examining the Current State  
of Residents' Health and Safety in HUD Housing  
Wednesday, November 20, 2019**

Thank you, Chairman Clay, Ranking Member Stivers and members of the subcommittee for inviting me to testify on behalf of the National Alliance of HUD Tenants (NAHT) on the state of residents' health and safety in privately owned, HUD multifamily housing. Together, Shalonda Rivers, another witness testifying today, and I co-chair NAHT's Global Ministries/Millennia Task Force.

NAHT is the national tenants' union, representing the 1.7 million households in privately-owned, HUD multifamily housing. Since 1992, NAHT has been governed by an all-tenant, elected Board, and I have served as President since 2018. I am also the President of the Phelps House Tenants Association, where I live in Manhattan. I moved to Phelps House, a HUD subsidized building for senior and disabled tenants in 2004, after my husband passed away and I became disabled; I had moved to New York from South Carolina after college for a career in medicine and real estate.

I urge Congress to pass the Tenant Empowerment and REAC Reform legislation proposed by NAHT and introduced today as a discussion draft. I also urge Congress to enact the HUD Inspection Act of 2019, introduced by Reps. Al Lawson (FL-05), Alma Adams (NC-12), and Val Demings (FL-10). Together, these bills will give new tools to empower tenants to ensure our homes are safe.

Although most HUD and public housing developments provide safe, decent and affordable homes for millions of income families,<sup>1</sup> it has long been apparent to NAHT's members that HUD's Real Estate Assessment Center (REAC) systematically underestimates the extent of substandard housing. As I told REAC's former long-time Director at NAHT's Conference last June, REAC is a system that has failed.

The disconnect between high REAC scores and substandard housing came to head at several Global Ministries properties in 2015, when tenants led by Tracy Grant at Eureka Gardens in Jacksonville, Florida and other cities exposed deplorable, life-threatening conditions in the press and on Capitol Hill,

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<sup>1</sup> According to HUD, the median REAC score in privately-owned developments was a respectable 85 in 2017 (REAC scores up to 100 points; 60 or below is a "fail"). A March 2019 GAO Report showed that of 27,486 multifamily properties inspected from 2013 through 2017, 1,760 (6%) failed at least one inspection, and 272 properties (1 percent of the total) failed two or more inspections. At the same time, fully 55% of HUD multifamily properties were found to have at least one serious health and safety violation in 2018.

The Preservation Database maintained by the National Low Income Housing Coalition has more recent data than that used in the GAO report. These data indicate that 4% of privately-owned, HUD multifamily housing units, and 3% of properties, have failed their REAC scores. Because of flaws in REAC's reporting system, NAHT believes these data understate the problem.

which REAC's inspectors had failed to detect. Recent coverage by NBC, ProPublica and other outlets have concluded that REAC is "pretty much a failure."<sup>2</sup>

HUD is finally recognizing that REAC needs to be modernized and has instituted the NSPIRE Demonstration in HUD Region III in response. But given the urgency, HUD's response is too little and too slow. Unfortunately, it took the death of two tenants in South Carolina from preventable carbon monoxide exposure and pressure from Congress to prompt HUD to finally address this life-threatening hazard.

Since REAC started in 1998, NAHT has proposed ways to engage residents of multifamily housing in the REAC inspection process.<sup>3</sup> NAHT's vision is that tenants, through organized tenant associations, can help HUD in its oversight role. Organized tenant groups can marshal thousands of residents as unpaid volunteers – serving as the "eyes and ears" of HUD – to bring our knowledge of substandard building conditions to the attention of REAC inspectors and others at HUD.

Unfortunately, from the outset, REAC has rejected this vision and locked tenants out of the process. REAC inspectors are trained to not engage with residents in any way when they visit a property. HUD has viewed REAC inspectors as scientific, objective investigators who cannot meet with residents out of concern that doing so would "bias" their results. At the same time, management representatives are allowed to accompany inspectors, but not the people who live in these homes!

By preventing its inspectors from benefiting from the expertise of the people who live in the properties, REAC has systematically missed a primary source of information about property conditions. For example, if inspectors visit during the summer, how will they know that the heating system doesn't work in the winter, unless they talk to the residents?

We believe that HUD's failure to engage or respect residents in the oversight process is the principal reason why HUD and REAC have become increasingly out of touch with actual physical conditions across the country. As HUD has downsized staff and buildings have aged, REAC's outmoded scoring system has failed to detect the true condition of properties. In many cases, like Eureka Gardens, tenants watched and suffered in horror as their homes deteriorated and their family's health was harmed. All this time, residents knew what was going on, but HUD didn't want to hear our voices or work with us to right the wrongs in our communities.

HUD's aging buildings have exposed tenants to environmental health and safety hazards which REAC's inflexible scoring system does not measure. For example, until recently, REAC "scored" toxic

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<sup>2</sup> See "'Pretty Much a Failure': HUD Inspections Pass Dangerous Apartments filled with Rats, Roaches, and Toxic Mold", by Molly Parker, the Southern Illinoisan/Pro Publica, November 16, 2018

<https://www.propublica.org/article/hud-inspections-pass-dangerous-apartments-with-rats-roaches-toxic-mold>

Also, "Under Ben Carson, More Families Live in HUD Housing that Fails Health and Safety Inspections," by Suzy Khimm et al, NBC News, November 14, 2018

<https://www.nbcnews.com/politics/white-house/under-ben-carson-more-families-live-hud-housing-fails-health-n935421>

<sup>3</sup> In 2000, NAHT developed comprehensive, no-cost proposals to enlist tenants as partners with HUD in overseeing our homes, updated in 2016. For example, we proposed to provide tenants with the same Notice, Comment and Appeal rights as owners in REAC inspections, and urged HUD to make REAC scores and reports available to residents. NAHT's recommendations have been presented to REAC during its annual Conference in Washington, DC, and quarterly NAHT Board meetings with top HUD officials, starting in 2000. REAC has largely ignored these recommendations. However, NAHT has had periodic successes in obtaining enforcement of substandard housing conditions by organizing tenants in "Eyes and Ears" meetings with regional and national HUD Office of Housing officials, apart from REAC.

indoor air with only one point in its 100-point scoring system, despite the growing evidence of widespread toxic mold and indoor air across the country. Our children could be severely suffering from asthma due to toxic mold and the building could get a 99 score from REAC! The toxic mold epidemic is largely caused by emerging water leaks and poor ventilation in aging buildings, often built with concrete, high-rise construction techniques in the 1960's and 70's—like St. Edmonds (now Southland Village) in Chicago, which received a passing REAC score of 66c around the time these pictures were taken (attached slides).

There are many other problems with REAC's scores. REAC missed the growing epidemic of bedbugs for decades, not even "scoring" for this problem until quite recently. Tenant groups in NAHT's membership generally found relief only through local code enforcement agencies or suffered in unacceptable conditions. HUD intervention sometimes occurred, but only after heroic efforts by tenant groups in areas where tenants were organized.

NAHT has presented detailed recommendations for revision of REAC's scoring system, for many years. We recently forwarded these to REAC with our comments on the NSPIRE demonstration. We ask the Committee to encourage REAC to make these changes.

Because HUD has failed to act, NAHT's first proposed Tenant Empowerment legislation in 2010. Several provisions of this proposal were included in H.R. 4868, filed by then Housing Subcommittee Chair Maxine Waters (D-CA) and full Committee Chairman Barney Frank (D-MA).

The Tenant Empowerment bill before the Committee today is built on H.R. 4868, adding new sections on REAC reform. We ask Congress to:

**1) Empower tenants to trigger HUD enforcement action by withholding the tenants' rent share in escrow when a property's REAC scores are at or below 60 and/or determinations of other serious violations have been made.**

HUD Notice 2018-8, implementing Section 222 of the HUD Appropriations bill, allows HUD to implement one or more enforcement actions to make owners bring buildings up to code, including full or partial withholding of Section 8 subsidies. But too often, powerful owners at buildings like Forest Cove in Atlanta, which has a recent REAC score of 32c, are treated with kid gloves by HUD.

I have visited Forest Cove (show slides<sup>4</sup>). Forest Cove is one of the 43 Global Ministries properties where HUD engineered a takeover by Millennia Properties, after Congress forced HUD to act in the wake of the news coverage of Eureka Gardens. Although Millennia has been managing the property for two years, tenants have been exposed to deplorable, unlivable conditions, including rats, water leaks, toxic mold, exposed electrical wiring, and more. No one should have to live like this!

NAHT's Global Ministries/Millennia Task Force has established a direct dialogue with Millennia CEO Frank Sinito and top HUD multifamily housing officials. We presented these slides to Millennia's top management and to HUD last spring, pleading for emergency relocation for 17 families facing life threatening conditions until their units can be fixed. Although the REAC score here was lowered from 62 to 32c when tenants demanded a new REAC inspection, HUD has failed to make Millennia provide temporary relocation, and families continue to suffer in deplorable conditions.

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<sup>4</sup> See Forest Cove photos from March 2019, compiled by Richard Hunsinger, NAHT VISTA Volunteer with AFSC/Atlanta: <https://drive.google.com/file/d/1h8t8EWTJPeJR4a3ZANXXrfsheZVx8w54/view?usp=sharing>

This bill would also empower tenants to put their rent in escrow, thereby triggering HUD to withhold its larger portion of the rent (what HUD calls Section 8 abatement) to maximize pressure on the owner to bring housing up to safe and decent condition. If HUD won't move against entrenched, powerful owners, Congress should give tenants the power to start the enforcement process and make HUD do its job.

**2) Allow tenants and cities to trigger a new REAC inspection.** The bill would enable tenants or cities to petition HUD to re-inspect a property when REAC fails to detect hazardous conditions. For example, St. Edmonds (now Southland Village) in Chicago scored a passing 66c in 2017 (show slides)<sup>5</sup>, despite widespread water leaks, toxic mold, exposed asbestos, and windows that leak in the cold Chicago winters. Tenants struggled for years to get HUD to respond. It was only when tenants organized and brought in the media in 2018 that the local HUD office finally acted—but not until a maintenance worker was hospitalized in the Intensive Care Unit and almost died from exposure to toxic mold, while removing it from behind the wall in a child's bedroom. Giving tenants the power to trigger a new REAC inspection would improve HUD's capacity to identify and address substandard housing.

**3) Give tenants and their associations the right to sue to enforce HUD contracts.** When life-threatening conditions like those at Forest Cove or St. Edmonds persist, and owners and HUD fail to act, tenants should have the right to sue to enforce contracts between HUD and owners. We do not have legal standing to do that now, despite the fact that we live there! This bill would establish "Third Party Beneficiary" status for tenants and tenant organizations so we could seek judicial relief in the federal courts.

**4) Give tenants Access to Information.** Today, tenants are handicapped in our efforts to save and improve our housing, because we can't get key information such as the owner's Repair Plans, expenditures from Repair Reserve funds overseen by HUD, and the owner's operating budget (HUD Form 92410). Oftentimes, tenants can't find out who the actual owner is, if ownership is masked by "limited partnerships" that don't identify this key information. If tenants have access to this information at their property, they can meet with owners to share concerns and help HUD expose waste, fraud and abuse, such as whether the maintenance workers assigned to a property are actually working there.<sup>6</sup>

HUD housing is heavily subsidized by taxpayers, and by tenants' rents. Section 4 of the bill would allow tenants to find out how our money is being spent and to make sure we—and the taxpayers—are getting our money's worth.

**5) Build tenant association capacity by making available at least \$10 million annually in Section 514 funding to local nonprofit tenant assistance organizations.** Congress has made available up to \$10 million annually through Section 514 of the Multifamily Assisted Housing Reform and Affordability Act to provide for tenant capacity building and participation in HUD decisions. Section 514 is not a direct "appropriation," but a set-aside of the \$14 billion Project-Based Section 8 account which Congress regularly appropriates each year.

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<sup>5</sup> See St. Edmonds photos from 2018, compiled by VISTA Volunteers Devondrick Jeffers and Janet Wilson from Southside Tenants Organized for Power (STOP), Chicago: [https://drive.google.com/open?id=1WB805w8r\\_PLw7J7FIVbeZdJC4fu1QwAn](https://drive.google.com/open?id=1WB805w8r_PLw7J7FIVbeZdJC4fu1QwAn)

<sup>6</sup> "Ghost" maintenance workers are a common scam. When able to get property budgets through the Freedom of Information Act, usually from state agencies, NAHT tenant groups such as the Fruit-Sever Tenants Association in Worcester, Massachusetts, have found owners assigning maintenance staff to their private market apartments or condos, while illegally charging their salaries to a HUD subsidy contract at the expense of tenants in the building.

Over the past 18 years, HUD could have made available \$180 million for Section 514 assistance to tenants. Instead, only \$12 million - just 6% of the total allowable amount – has been spent.<sup>7</sup> Had these funds been available, tenants would now be far more organized, filling the void left by HUD as it has downsized staff and shut down field offices across the country. Our homes would be in far better condition today.

This bill would require HUD to spend *not less than* \$10 million annually, in contrast to the \$10 million *ceiling* today. NAHT has made recommendations to HUD on how best to ensure these funds are made available to qualified local nonprofits, either through VISTA Volunteer resources and/or through capacity-building grants.

Today, most HUD tenants nationwide remain unorganized and largely unaware of their rights. The history of the recently completed VISTA Affordable Housing Preservation Project, co-partnered by NAHT with Equal Justice Works, and previous Section 514 grant awards has demonstrated that small investments in local capacity-building can yield remarkable results in building legitimate tenant associations in HUD housing. In the long term, this is the best investment HUD can make to ensure that tenants are organized to be effective partners with HUD in oversight of the nation's housing stock.

**6) Make Tenants Partners in REAC Inspections.** The Tenant Empowerment legislation would require HUD and REAC to adopt simple, no-cost steps to involve tenants as partners in REAC inspections.

NAHT has advocated for many of these recommendations for more than 20 years. We updated them in 2016<sup>8</sup> and also provided detailed comments on REAC's NSPIRE Demonstration. Both are attached to our testimony.

We are asking Congress to legislate these additional steps to empower tenants:

- Require REAC inspectors to meet with tenant associations, if any, upon request, prior to inspections;
- Add up to five apartments for inspection, upon request of the Tenants Association, if any;
- Allow a representative of the Tenant Association to accompany inspectors, subject to approval by the resident before entering individual apartments;
- Review work order requests during REAC site visits, to assess maintenance responsiveness;
- Allow tenants or cities to trigger REAC inspections, upon petition or request;
- Require REAC to access local City code agency reports, if readily accessible;
- End self-certification that life-threatening health and safety violations have been corrected and require HUD, REAC and/or PBCA to inspect for compliance; and

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<sup>7</sup> HUD has also awarded \$2.8 million from FY 2016 Section 514 funds to two organizations, but has not yet authorized its expenditure. HUD is planning to spend an additional \$3 million approved by Congress in FY 2019, and \$3 million more requested in FY 2020. When these funds are committed, HUD will still have spent only \$21 million over 18 years on HUD multifamily tenant participation.

<sup>8</sup> In 2014, NAHT co-sponsored a HUD-funded VISTA Volunteer project in 20 cities. The VISTAs and tenants they organized quickly reported the high REAC score/substandard housing conditions in their cities. At their instigation, NAHT convened a Task Force in 2015, which updated NAHT's long-standing recommendations for REAC Reform. These were presented to Deputy Assistant Secretary Priya Jayachandran in January 2016 (attached to these comments). Since then, NAHT has discussed these with REAC and other HUD officials at plenary sessions during NAHT's June Conference in Washington, DC, and periodic NAHT Board meetings, most recently with Acting REAC Director David Vargas on October 2.

- Allow inspectors to trigger HUD-funded testing for suspected environmental hazards, such as mold, radon, asbestos or lead paint, and develop remedial plans where problems are confirmed.

**7) Restore Tenant Surveys in REAC: Support the Lawson bill to strengthen HUD enforcement**  
NAHT supports Rep. Lawson's HUD Inspection Act of 2019 legislation, which would restore the tenant surveys dropped by REAC in the early 2000's for Multifamily Housing. The survey should be restored nationwide now. We should not have to wait two years for the NSPIRE Demonstration in Region III to be completed to restore Tenant Surveys, or to adopt the no-cost tenant participation provisions of the Tenant Empowerment bill.

Congress should also ensure that the survey is not done only electronically, but by mail as well, similar to the US Census. Many tenants, especially low-income elderly households, cannot afford access to computers and the internet. We are concerned that REAC may attempt to only use electronic survey methods due to cost.

The Lawson bill also strengthens HUD's enforcement tools when properties score at or below 60 on their REAC scores by requiring HUD to take one or more enforcement steps identified in Section 222 of the THUD Consolidated Appropriations Act. Section 222 had been watered down a few years ago, perhaps inadvertently, by making HUD enforcement optional, not mandatory. NAHT's tenant rent withholding provision would complement the HUD rent withholding option which the Lawson bill would strengthen, should HUD fail to act.

However, in restoring the previous strong language in this section, the Lawson bill leaves out earlier provisions requiring Notice and Comment rights for tenants on plans and correspondence between owners and HUD. We urge the Committee to restore this language as well, either by amending the Lawson bill, or adopting these changes in the stand-alone Tenant Empowerment bill.

**8) Make HUD's enforcement framework in Section 222 permanent.** We also urge the Committee to use this opportunity to make the "Schumer-Bond Amendment", which NAHT was instrumental in passing in 2006, permanent rather than subject to bi-ennial renewal in the THUD Appropriations bill. The Schumer Amendment is the ultimate source of the mandate in Section 222 for HUD to preserve at-risk substandard housing with Project-Based Section 8 contracts whenever possible. NAHT urges passage of the permanent authorization language proposed by the National Housing Law Project, currently in Section 7 of the Tenant Empowerment Discussion Draft.

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In closing, tenants are the real experts about conditions in our developments. Because these are our homes, we have the most at stake and the most compelling motivation to ensure that they are decent, safe and sanitary. Please pass the Tenant Empowerment bill so we can partner with HUD to stem the disgraceful blight of substandard housing.

Thank you for the opportunity to present NAHT's views today and I look forward to your questions.

Attachments:

"Pretty Much a Failure," by Molly Parker, Pro Publica, 11/16/18

"Under Ben Carson, More Families Live in Housing that Fails", Suzy Khimm, NBC News, 11/14/18

Photos from Forest Cove Apartments in Atlanta, GA, 2019  
Photos from St. Edmonds in Chicago, IL, 2018  
NAHT comments on NSPIRE Demonstration, submitted to HUD, 10/21/19  
NAHT recommendations on REAC Reform, presented to HUD, January 2016

## **Attachment: NAHT Comments to HUD on NSPIRE Demonstration**

**U. S. Department of Housing and Urban Development**

Attn: Office of the General Counsel, Regulations Division,  
451 7th Street SW, Room 10276,  
Washington, DC 20410-0500  
Submitted electronically through [www.regulations.gov](http://www.regulations.gov)

October 21, 2019

**Re: Docket No. FR-6160-N-01: “Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols”**

The following comments are submitted on behalf of the National Alliance of HUD Tenants (NAHT) regarding the Department of Housing and Urban Development’s (HUD) Notice of Demonstration to Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols (Docket No. FR-6160-N-01).

NAHT is the national tenants’ union representing the 1.7 million households in privately-owned, HUD multifamily housing. Since 1992, NAHT has been the national voice for HUD assisted tenants, and is the only national tenant membership coalition in the US. Governed by an all tenant, elected Board, NAHT’s voting membership consists of tenant associations that meet HUD standards for legitimate tenant organizations at 24 CFR Part 245, Subpart B, and associated areawide tenant assistance organizations in 17 states. Our mission is to preserve and improve HUD assisted housing through tenant empowerment and participation in decisions affecting our homes.

Since the inception of REAC, NAHT has proposed ways to engage residents of multifamily housing in the REAC inspection process. NAHT’s perspective is that tenants, through organized tenant associations, can help HUD in its oversight role, by marshalling thousands of residents as unpaid volunteers—serving as the “Eyes and Ears” of HUD-- to bring their knowledge of substandard building conditions to the attention of REAC inspectors and others at HUD. NAHT’s view is that tenants are the real experts about conditions in their developments, with the most compelling motivation to ensure that HUD’s multi-billion dollar investment is best maintained.

The NSPIRE Demonstration offers an opportunity for HUD to finally institutionalize tenant participation in the REAC process, and to modernize and reform REAC’s inspection protocols to improve building conditions in aging HUD properties for thousands of low income residents. We summarize specific recommendations for NSPIRE below.

**Background: Tenants as the “Eyes and Ears” of HUD.** Unfortunately, from the outset, REAC’s philosophy has opposed NAHT’s perspective. REAC inspectors are trained to not engage with residents in any way when they visit a property. HUD has viewed REAC inspectors as scientific, objective investigators who cannot meet with residents since that would presumably “bias” their results. But by preventing its inspectors from benefiting from the wisdom of the people who live in the properties, REAC has systematically missed a primary source of information about property conditions. For example, if inspectors visit during the summer, how will they know whether the heating system is faulty in the winter, unless they talk to the residents?

NAHT first proposed no-cost ways to institutionalize tenant participation in the REAC process in the late 1990’s. For example, we proposed to provide tenants with the same Notice, Comment and Appeal rights as owners, and urged HUD to make REAC scores and reports available to residents. NAHT’s recommendations were presented to REAC during its annual Conference in Washington, DC, and quarterly NAHT Board meetings with top HUD officials, starting in 2000. REAC mostly ignored these



recommendations.<sup>9</sup> However, NAHT has had periodic successes in obtaining enforcement of substandard housing conditions by organizing tenants in “Eyes and Ears” meetings with regional and national HUD Office of Housing officials, apart from REAC.

**Aging housing stock exposes gap in REAC scores.** Meanwhile, over the years, HUD’s aging housing stock exposed tenants to increasing environmental health and safety hazards which REAC’s inflexible scoring system did not detect. For example, until recently, REAC “scored” toxic indoor air with only one point in its 100 point scoring system, despite the growing evidence of widespread toxic mold and indoor air across the country. This predictable problem was largely caused by emerging water leaks and poor ventilation in aging housing stock, often built with modernist concrete, high-rise construction techniques in the 1960s and 70’s; tenants in other countries such as the UK were plagued by similar problems. Other examples can be cited; REAC missed the growing epidemic of bedbugs for decades, not even “scoring” for this problem until quite recently. Tenant groups in NAHT’s membership generally found relief only through local code enforcement agencies, or suffered in unacceptable conditions. HUD intervention did occur, but only after heroic efforts by tenant groups in areas where tenants were organized.

Finally, the disconnect between high REAC scores and the reality of substandard housing came to head at several Global Ministries properties in 2015, when tenants exposed deplorable conditions in the press, with Congressional support, in Florida, Georgia, and Tennessee. Press coverage by NBC, ProPublica and other outlets have continued to expose these issues throughout 2018 and 2019, keeping a spotlight on the problem. HUD is to be commended for recognizing that REAC needed to be modernized and instituting NSPIRE in response.

**NAHT’s Recommendations for REAC Reform: Suggestions for NSPIRE.** At the same time, NAHT co-sponsored a HUD-funded VISTA Volunteer project in 20 cities; VISTAs quickly reported the high REAC score/substandard housing conditions in their cities. At their instigation, NAHT convened a Task Force in 2015, which revised and updated NAHT’s long-standing recommendations for REAC Reform. These were presented to Deputy Assistant Secretary Priya Jayachandran in January 2016 (attached to these comments). Since then, NAHT has discussed these with REAC and other HUD officials at plenary sessions during NAHT’s June Conference in Washington, DC, and periodic NAHT Board meetings.

Building on these recommendations, ***we offer the following suggestions for the NSPIRE Demonstration:***

**1) Notify tenants about REAC inspections, reports and appeals, and NSPIRE..** At the June 10, 2019 NAHT Conference, tenants brought to HUD’s attention the reality that REAC scores were rarely posted at developments and REAC reports rarely made available to tenants upon request, despite HUD requirements. In response, HUD’s Office of Asset Management and Portfolio Oversight (OAMPO) issued a letter to owners and HUD staff on July 8, 2019, reminding owners of these requirements, and further requiring owners to post Notices of how tenants could appeal unrealistic REAC scores. The memo also encourages tenants to submit photo or video documentation of substandard conditions and/or failure of owner self-certifications to reflect compliance with REAC findings.

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<sup>9</sup> HUD did require owners to make inspection reports available to tenants in revisions proposed by NAHT to the Management Agent Handbook (4381.5, REV -2) in 1994. But at NAHT’s annual conference in Washington, DC, it has been rare to find a tenant association that has ever seen a posted REAC score, let alone been provided access to REAC Reports; HUD has never sanctioned owners for their failure to comply with Handbook requirements, despite this overwhelming evidence of non-compliance.

We encourage NSPIRE to implement this Memorandum at the 4,200 properties selected for the NSPIRE Demonstration. REAC or HUD representatives should check to ensure that the required Notices to tenants are posted, and ask residents whether they were aware of REAC scores and reports.

NSPIRE could also build on the July 8 Memorandum, by formally establishing the same Notice, Comment and Appeal rights for tenants, as are afforded the owners and their agents in the REAC inspection process—a long-standing recommendation of NAHT since the 1990's.

Similarly, NSPIRE should ensure that a Notice is provided to residents of the NSPIRE Demonstration itself, not just the specific REAC property inspections. NSPIRE should encourage residents to get involved in the process, as partners with HUD, in particular to ensure that owner self-certification is accurate.

**2) Restore Tenant Survey.** REAC's initial protocols required a Tenant Survey, by mail, of a sample of REAC-inspected properties. This was dropped in the early 2000's, primarily due to cost.

NAHT has long recommended restoration of the Survey. At the June 10, 2019 NAHT Conference, REAC Director DJ LaVoy indicated that REAC would take this important step. However, he suggested that it would be an on-line, not a paper, survey. Many tenants, particularly older residents who cannot afford or easily access the internet, will find an all electronic survey burdensome. We recommend NSPIRE to experiment with different alternatives, including all-paper and mixed paper and electronic submission forms, as the US Census has operated.

We also urge HUD to update its Survey, asking in particular questions about widespread, modern environmental problems that were less common in the 1990's, such as water leaks, mold, environmental hazards, and bedbugs. The Survey should also include questions about management performance and treatment of tenants regarding their rights, including the Right to Organize. NAHT can offer to convene a Task Force of resident leaders, organizers and legal service advocates to review HUD's draft Survey proposals and offer suggestions, as we did in the 1990's.

**3) Allow REAC inspection upon request of 25% of tenants, and/or City.** NSPIRE should also offer tenants the opportunity to trigger a REAC inspection upon request of 25% of residents and/or the City in which the property is located. We do not believe this would occur frequently or in a burdensome manner. But it would give tenants and the City a voice in bringing to HUD's attention problems that may have been missed in the once in two year inspections proposed by NSPIRE.

**4) Promote Tenant Participation in REAC inspections.** NAHT has proposed several simple, no-cost recommendations to enlist legitimate tenant associations as defined by HUD regulations at 24 CFR Part 245, Subpart B, in the REAC process. We encourage NSPIRE to incorporate these proposals in the 4,200 participating properties. These include:

- Requiring a meeting between the REAC inspector and any legitimate tenant association, where they exist, prior to starting an inspection;
- Allowing a representative of any legitimate tenant association to accompany inspectors upon request of the association, not to enter individual apartments unless invited by the tenant;
- Adding up to five units to REAC's random selection, if requested by a legitimate tenants association.

NAHT has been advocating for these simple, no-cost steps to institutionalize tenant participation in REAC for more than 20 years. We believe that HUD's failure to act on these suggestions and REAC's institutionalization of an elitist, misguided "expert" philosophy in its protocols (by for example forbidding inspectors to talk with residents!), has been one of the principal reasons why REAC has progressively failed in its mission to detect substandard conditions over the years. NSPIRE offers a welcome opportunity to change this course and for HUD to embrace residents as allies, not obstacles, to successful inspection outcomes.

Because most tenants are not organized into legitimate tenant associations or organizing committees recognized by 24 CFR Part 245, in practice we do not believe this will prove burdensome to REAC. However, HUD should encourage the formation of such associations (see below), because they can be invaluable sources of information and allies with REAC as it conducts its independent inspections.

**5) *Review work order reports during REAC site visit.*** NAHT also has recommended that REAC inspectors access, either electronically or by site inspection, the Summary Work Order Reports that many modern management companies maintain, that record and date tenants requests for repairs, identify when repairs were conducted, and note tenant satisfaction with the results. If conducted prior to a site inspection, this review would provide REAC with a quick overview of how many repairs are reported, how long it takes to complete them, and tenant satisfaction. While not perfect—these reports don't indicate whether tenants were coerced into "signing off" on repairs, a commonplace problem—it would at least provide some indication of repair performance at the property, and indicate any problems (such as water leaks, mold) that might suggest bigger problems.

Consulting with tenant association representatives would also provide a "reality check" and provide additional information to be gleaned from these data.

**6) *Access local code inspection reports, where available electronically.*** NAHT has also recommended that REAC inspectors access local code reports in cities, such as New York, where city code reports are available on-line. REAC inspectors could upload property reports for a particular building on site, using their hand-held computers, to see what City inspectors have found and get a sense what the problems are in the building, before commencing their inspection. Like consultations with tenant associations, REAC should not consider this a form of "bias" in their "scientific" investigations, but a welcome source of information to look out for when they begin their inspections. REAC inspectors would continue to exercise their own judgment, of course, about whether these problems are real.

**7) *Revise and modernize REAC scoring system.*** NAHT is pleased that NSPIRE has taken an important step toward updating the antiquated REAC scoring system, which has systematically underreported substandard conditions in people's apartments for decades. Increasing the weight given to "unit" scores vs. common areas and grounds is an important step. In addition, NAHT urges NSPIRE to embrace additional, specific changes recommended by NAHT's Task Force, in the attached comments.

**8) *Adopt a second stage environmental testing protocol.*** We urge NSPIRE to implement NAHT's recommendation to provide for environmental testing of suspected hazards, triggered by a REAC inspectors site visit. Many common toxins and environmental hazards—such as toxic mold, radon, lead paint, friable asbestos, or bedbugs—cannot readily be identified by even the best trained REAC inspectors. Where inspectors have reasonable cause to suspect that an environmental hazard might exist—through their own observations, reports by tenants or maintenance staff, or city agencies—we propose that they include this in their reports, identifying the need for professional testing to ascertain whether environmental hazards are present. NSPIRE should retain, in the Region III HUD office, a list of professional testing

companies, solicited through HUD's procurement process, who would be on retainer to investigate suspected hazards, upon recommendation of REAC inspectors.

If testing reveals hazardous conditions, NSPIRE should incorporate a "second stage" REAC consultation between owners, management, tenant association representatives (if any) and the HUD Field Office, draw up a remedial plan to address the problems. In the Multifamily field, this could also involve the Office of Recapitalization, which has a number of financial tools and incentives that could be made available to address these concerns. The Office of Housing protocols for substandard housing could apply to these situations.

Since these conditions would not be present in all, or most properties, and triggering requests would (hopefully) be rare, this should not be an undue cost burden to the NSPIRE Demonstration. NAHT would support an allocation of funding for this purpose.

**9) *Build tenant association capacity by making available \$10 m annually in Section 514 funding to local nonprofit tenant assistance organizations.*** Congress has made available up to \$10 million annually through Section 514 of MAHRAA, to provide for tenant capacity building and participation in HUD decisions. At the moment, the Office of Recap has \$5.8 million available, and will soon have \$3 million more, from this source.

NAHT has made recommendations to HUD on how best to ensure these funds are made available to qualified local nonprofits, either through VISTA Volunteer resources and/or through capacity-building grants. At present, NAHT is not aware of active, qualified groups in Region III. If HUD can work with NAHT, we can collaborate to identify, recruit and train such groups during the NSPIRE Demonstration. We ask that NSPIRE support these NAHT recommendations, and work with NAHT and Recap to make these funds available.

The history of the recently completed VAHPP VISTA project and previous Section 514 grant awards has demonstrated that small investments in local capacity-building can yield remarkable results in building legitimate tenant associations in HUD housing. In the long term, this is the best investment HUD can make to ensure that tenants are organized to be effective partners with HUD in oversight of the nation's housing stock.

Thank you for your consideration of these views. Please contact Michael Kane, NAHT Executive Director, at [michaelkane@saveourhomes.org](mailto:michaelkane@saveourhomes.org) or 617-522-4523 or 617-233-1885 for more information.

Sincerely,  
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## **NAHT Recommendations for HUD's REAC Inspection Process**

**Submitted to:**

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January 21, 2016

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**NAHT Recommendations for REAC Reform**

*Adopted by NAHT Board January 10, 2016*

### **Provide for Tenant Participation in REAC Inspections**

- Provide Access to Information, Notice, Comment and Appeal rights for tenants and their representatives, parallel to notice, comment and appeal rights given to owners
- Post notice of the inspections with information about the process, whom to contact, and appeals to HUD, before and after REAC inspections
- Ensure that the REAC Score is posted and that the REAC Report and related correspondence are available for inspection by tenants and their representatives
- Allow legitimate Tenants' Associations to trigger a REAC inspection, upon request
- Allow tenants and tenants' Associations to recommend up to five additional apartments to be added to units selected for inspection by REAC
- Allow Tenants' Association representatives to accompany inspectors, upon the Association's request, to include questions and comments (but not to enter individual apartments without the invitation and consent of the occupying tenant)
- Do not allow management staff to enter units being inspected by REAC inspectors during inspection
- Require REAC to meet with legitimate tenant groups and regional organizing groups as part of inspections, upon request
- Restore Resident Survey prior to a REAC inspection, asking tenants to rate the recertification process, management performance and condition of apartments. REAC inspectors could use this survey to assist in the selection of apartments and investigation of physical and management issues

### **Strengthen REAC Inspection Process**

- End self-certification that "c" citations have been corrected; require HUD, REAC and/or PBCA to inspect for compliance
- Require REAC to consult with City code agencies, review records, if any
- Require REAC to review work order records in management office, inspect for response time, tenant satisfaction
- Require REAC to compile/review a list of units selected for inspection but not visited, especially if due to management objection (no keys, bedbugs, etc)

- Impose Civil Monetary Penalties for owner/agent failure to comply with posting requirements or failure to address REAC deficiencies

### **Revise REAC Scoring System to Better Account for Common Deficiencies**

- Mold
  - Increase Criticality and Severity for Mold/Mildew across all areas, but allot an even higher Criticality and Severity for Mold/Mildew in Dwelling Units, and such Common Areas as the Day Care and Community Room & Spaces
  - Increase Nominal Item Weight for Mold/Mildew
  - Separate Mold/Mildew from Water Stains/ Water Damage
- Dwelling Units
  - Bathroom
    - Add 'Ventilation – Clogged'
    - Add 'Mold/Mildew' and 'Water Stains/Water Damage'
  - Hot Water Heater
    - Add 'Inadequate/Insufficient Supply'
  - Kitchen
    - Add 'Mold/Mildew' and 'Water Stains/Water Damage'
  - HVAC System
    - Add 'Inadequate Heat Supply'
- Building Systems
  - Add 'HVAC – Inoperable/Inadequate Heat Supply'
- All Areas
  - Add 'Presence of Asbestos/Radon'
  - Add 'Walls - Presence of Lead Based Paint'
  - Increase Criticality for 'Mice/Vermin'
  - Increase Criticality of 'Outlets/Switches/Cover Plates – Missing/Broken'
  - Increase Criticality of 'HVAC - Convention/Radiant Heat System Covers Missing/Damaged'
  - Health & Safety – change 'Infestation - Rats/Mice/Vermin' to 'Infestation – Rats/Mice'
  - Health & Safety – Add 'Infestation – Bedbugs'
  - Health & Safety – Add 'Infestation – Roaches'
  - Health & Safety – change 'Infestation – Insects' to 'Infestation – Insects/Vermin'
- Broaden the policy that points will be deducted only for one deficiency of the same kind within a sub-area to include and account for all deficiencies present.
- Re-adjust or remove the Point Loss Caps to allow for accurate deductions for deficiencies

### **Revise REAC Protocol to Allow for Testing and Remediation of Environmental Hazards**

- Require REAC inspectors to identify potential environmental hazards through observations by inspectors, meetings with tenants or management staff, complaints filed by tenants, inspections or reports by other government agencies, tenant surveys or other sources
- HUD to retain, in each Regional Office, professional testing firms to provide on call testing of air quality, mold, asbestos, bedbugs, radon, lead based paint and similar hazards
- Where inspectors identify a potential hazard, HUD or owner funded consultants to be brought in to test, measure, and evaluate the potential hazard and develop a remediation plan, in consultation with any tenants association or their representatives
- HUD's Contract Administrator and/or regional Office of Housing to monitor and implement the remediation plan
- Revise REAC and Contract Administrator scoring systems to better take into account environmental hazards confirmed through testing or observation (i.e., a two stage scoring system)