No. 06-1507

In the
Supreme Court of the United States

PHILADELPHIA HOUSING AUTHORITY,
Petitioner,

v.

VANESSA HENDERSON, ET AL.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

BRIEF IN OPPOSITION

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July 27, 2007

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Question Presented for Review

While the parties to this Consent Decree were negotiating its terms, HUD proposed regulations which, like the Decree, concerned the due process rights of respondents (tenants subsidized through the "Section 8" program). The parties, plainly anticipating that HUD would promulgate final regulations after entry of the Decree, included this paragraph:

> ¶13. Should [HUD] promulgate regulations which require PHA [petitioner] to perform acts which are inconsistent with this [Decree] or which prohibit PHA from performing acts consistent with [it], such regulations shall govern . . . [and] either party shall file an appropriate petition to modify this decree. . . .

About one year after the Decree was entered, HUD did promulgate final regulations. Neither party sought to modify the Decree until, twenty years later, petitioner asked the district court to vacate it entirely.

The question presented is: considering the uncommon events which prompted ¶13, and construing that paragraph properly, should the Decree be respected – rather than vacated – where petitioner has not shown, as required by ¶13, that continued compliance with the Decree interferes with its ability to conform to the final regulations, which the parties had anticipated; nor has petitioner shown that requiring continued compliance is inequitable; and where the Decree still enhances the respondents' procedural rights?

List of Parties

Respondents incorporate by reference petitioner's List of Parties, except that pursuant to Fed. R. Civ. P. 25(d) the individual defendants have been replaced by the individuals who presently hold the public offices they once held.

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Statement of the Case

The Court of Appeals clearly and accurately stated the case in section "I" of its opinion (*see:* Appendix[1] pp. 2a-6a), which respondents ("Tenants") incorporate by reference herein. To it Tenants add that the Court of Appeals subsequently denied rehearing, and this petition for *certiorari* was then filed by PHA.

The statement of the case by petitioner ("PHA") is marred by misleading assertions, most notably PHA's claim that the Court of Appeals required the Consent Decree to continue "in perpetuity." To the contrary, the Court of Appeals said nothing of the sort. Rather, it held that HUD's promulgation of final regulations 23 years ago, as anticipated by the parties at that time and provided for in the Decree, does not in and of itself justify PHA's present motion – filed "like a bolt out of the blue" – to vacate the Decree. App. p. 8a. The Court further held that PHA failed to meet its burden of showing that preserving the Decree would be inequitable. App. p. 9a. The Court, of course, did not rule out the possibility that some future event may justify modifying or even vacating the Decree.

PHA's statement of the case omits significant facts, in particular: the existence and terms of ¶13 in the Decree, and that before the Decree was entered HUD published proposed regulations. PHA's omissions defy reason, because the Court of Appeals correctly found that the inclusion of that paragraph, and the proper construction of it, were crucial factors in deciding the case.

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[1] By the "appendix," respondents mean the appendix filed by petitioner PHA.

Furthermore, PHA's statement of the case fails to mention that the Decree includes several provisions which provide Tenants with greater, or at least more specific, protections than do HUD's final regulations. The Court of Appeals summarized most of these provisions.[2] App. p. 5a.

Reasons for Denying the Petition

PHA's primary argument with the Court of Appeals' decision is entirely mis-directed because PHA fails to engage the foremost issue: the proper construction of the Consent Decree. One cannot determine whether "the objects of the decree have been attained . . . ," as PHA asserts they have since HUD promulgated final regulations, until one has construed the Decree correctly to determine what those objects are. *Frew v. Hawkins,* 540 U.S. 431, 442, 124 S. Ct. 899, 906 (2004). The Court of Appeals correctly construed the Decree to find that its object was to provide Tenants with *enduring* protections, not just temporary ones.

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[2] To the Court of Appeals' list of the Decree's benefits another should be added. HUD's regulation provides that, in most types of appeals, "the *PHA must give the opportunity for an informal hearing before the PHA terminates* housing assistance payments for the family . . . ." 24 C.F.R. § 982.555(a)(2) (emphasis added). App. p. 15a.

The Decree provides: "Section 8 payments shall continue *until a final decision of the hearing officer is rendered.*" ¶4 (emphasis added). App. p. 38a. When a Tenant requests an informal hearing, therefore, HUD's regulation requires that benefits continue at least until the hearing itself, but the regulations are unclear about whether benefits must continue after the hearing until the time when a (written) decision is rendered; the Decree unambiguously requires that benefits continue until the decision is rendered.

Furthermore, PHA ignores a key fact which this Court has held usually dictates that a consent decree be preserved. "Ordinarily, however, modification should not be granted where a party relies upon events that actually were anticipated at the time it entered into a decree." *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 385, 112 S. Ct. 748, 760 (1992). The Court of Appeals, construing ¶13 of the Decree, correctly decided that it reflected the parties' anticipation that HUD would soon promulgate final regulations. PHA cannot rely upon the promulgation of final regulations as the basis for vacating the Decree because the parties *anticipated* those regulations.

The supposed inter-Circuit conflict which PHA asserts the Third Circuit created with its decision, in the light of day proves to be readily explainable. The "negative impact" that PHA claims the decision has on its own ability to administer the Section 8 program, is unproven and, at worst, minor. PHA failed to present evidence to the district court that the Decree imposes any significant burden upon it. Any adverse impact upon other governments and agencies is entirely speculative.

A. The Court of Appeals correctly construed the objects of the Decree and determined the parties had anticipated that HUD's final regulations would not render the Decree unnecessary.

The Court of Appeals correctly construed the Decree and determined that the district court's order vacating the Decree rested on an unsound foundation: a mis-construction of the Decree. The district court erroneously held that the parties intended the Decree merely to provide Tenants with due process until HUD promulgated final regulations. App. p. 12a. But ¶13 of the Decree, the Court of Appeals observed,

belies the district court's construction of the Decree. That paragraph, viewed in light of HUD's pre-Decree proposal of regulations, manifests the parties' anticipation that HUD will promulgate final regulations and provides expressly for the Decree to continue afterward, unless – and to the extent that – the final regulations require PHA to perform acts which are inconsistent with the Decree or prohibit PHA from complying with provision(s) of the Decree. In either event, ¶13 states that the Decree is then to be modified, not vacated altogether.

Petitioner's brief is remarkable for the complete absence of analysis of ¶13 or of the other provisions of the Decree. PHA claims that the purposes of the Decree have been met, but never engages the text of the Decree to ascertain what those purposes are. Such disregard for the text of the Decree explains petitioner's citation to precedents which are distinguishable from this case, and its histrionic claim that the Third Circuit's ruling will have a substantial impact beyond this case itself.

The Court of Appeals correctly applied *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 112 S. Ct. 748 (1992) to this case. In *Rufo* this Court held:

> a party seeking modification of a consent decree bears the burden of establishing that a *significant change in circumstances warrants* revision of the decree. If the moving party meets this standard, then the court should consider whether the proposed modification is suitably *tailored* to the changed circumstances.

Rufo, 502 U.S. at 383-84, 112 S. Ct. at 760 (emphases added).

In *Rufo* this Court discussed in particular the standard for modifying consent decrees which govern state or local governments. Contrary to PHA's argument, *Rufo* did not hold that a decree against a government agency should be vacated whenever any subsequent change in the law occurs. Rather, *Rufo* (as the Third Circuit noted) rebuts PHA's argument that HUD's promulgation of final regulations justifies vacating the Decree, because the parties anticipated that event. This Court stated in *Rufo*: "[o]rdinarily, however, modification should not be granted where a party relies upon events that actually were *anticipated* at the time it entered into a decree." *Rufo*, 502 U.S. at 385, 112 S.Ct. at 760 (emphasis added). Because the parties, as evidenced by ¶13, anticipated when the Decree was entered that HUD would promulgate final regulations, the Third Circuit correctly ruled that HUD's promulgation of them, as expected, does not warrant vacating the Decree.

PHA's reliance upon *Frew v. Hawkins*, 540 U.S. 431, 124 S.Ct. 899 (2004) is ill-considered. This Court stated in *Frew*:

> The federal court must exercise its equitable powers to ensure that *when the objects of the decree have been attained*, responsibility for discharging the State's obligations [under federal law] is returned promptly to the State and its officials.

540 U.S. at 442-43, 124 S.Ct. at 906-07 (emphasis added). The threshold question under *Frew*, therefore, is: what are the objects of the decree?

The Third Circuit correctly construed the Decree to have objectives beyond just serving as a "temporary stopgap." App. p. 6a. The Decree contains a number of provisions which, while consistent with HUD's proposed and final

regulations, go beyond those to provide Tenants with additional benefits. *See* Court of Appeals opinion, App. p. 5a; and *supra*, note 2. The Decree was intended to provide Tenants with those additional benefits indefinitely. It follows, therefore, that the objects of the Decree were not attained as soon as HUD promulgated final regulations, nor have all the objects of the Decree been attained since then.[3]

Contrary to PHA's assertion, the Third Circuit's holding that the Decree was intended to survive the promulgation of

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[3] PHA suggests that it complied fully with the Decree throughout the twenty-plus years it was in force. PHA pet. p. 13. This suggestion is artfully couched and deceptive. It is true that Tenants never filed a motion to enforce the Decree. But the absence of a motion to enforce the Decree does not necessarily mean PHA always complied with it. Many factors must be considered when a plaintiff decides whether and when to move to enforce a consent decree, and some of those factors are not related to defendant's compliance. For example, as Tenants explained to the Court of Appeals (Brief to 3d Cir., p. 33): for a long period of time, PHA did not record testimony given at informal hearings regarding Section 8 terminations. In the absence of recorded testimony from an administrative hearing, under Pennsylvania law appellants (including Section 8 tenants) are entitled to a *de novo* trial in Pennsylvania's Court of Common Pleas. *See* 2 Pa.C.S.A. § 754. When a *de novo* trial is available on appeal, procedural errors in an administrative hearing are relatively harmless. So Tenants had little incentive to move to enforce certain aspects of the Decree. Another factor is whether PHA was receptive to correcting violations of the Decree informally on a case-by-case basis. Plaintiffs acknowledged during oral argument before the district court that in recent years PHA's staff counsel were receptive to informal requests. But that was not always the case. Without the Decree, PHA would no longer have an incentive informally to resolve problems that could have been avoided were the Decree still in force.

final regulations, is not tantamount to holding the Decree must be maintained *in perpetuity*. If a significant change in the factual or legal circumstances occurs which makes continued enforcement of one or more provisions in the Decree problematic for PHA, then – and only then – may equitable relief from the Decree be warranted. Even in that event, however, any relief would have to be "tailored," as *Rufo* puts it, to address the problem. 502 U.S. at 383-84, 112 S. Ct. at 760.

Frew reiterates *Rufo's* statement that the burdens a consent decree places upon state and local governments in carrying out their functions, are more than "marginally relevant" when modification of the decree is proposed. 540 U.S. at 442, 124 S. Ct. at 906-07, *citing Rufo*, 502 U.S. at 392 n.14, 112 S. Ct. at 764-65. But the Court did not go as far in *Frew* as PHA suggests it did. "*If the State establishes reason to modify the decree*, the court should make the necessary changes; *where it has not done so, however, the decree should be enforced according to its terms*." *Frew, supra* (emphases added). *Frew* is consistent with *Rufo*, which explained the rule this way:

> The concurrence mischaracterizes the nature of the deference that we would accord local government administrators. As we have stated, *the moving party bears the burden* of establishing that a significant change in circumstances *warrants modification of a consent decree. No deference is involved in this threshold inquiry.* However, once a court has determined that a modification is warranted, we think that principles of federalism and simple common sense require the court to give significant weight to the views of the local government officials who must implement any modification.

Rufo, 502 U.S. at 393, n.14, 112 S. Ct. at 764 (emphases added; internal citation omitted).

Here, PHA failed to show that continued compliance with the Decree places any undue burden upon it – that the change in the law effected by promulgation of final regulations *warrants modification of the Decree*. Of course, compliance with the Decree – like compliance with HUD's final regulations (and with the 5th and 14th Amendments) – burdens PHA to some extent. But that burden is not sufficient to warrant modifying the Decree. PHA had to show, under *Frew* as well as under *Rufo*, that its continued compliance with the Decree placed a significant burden upon it, beyond that burden imposed by HUD's regulations.

PHA's argument boils down to an assertion that it would prefer not to have the Decree around any longer. *See:* PHA pet. pp. 18-19, and § C *infra,* pp. 12-14. But *Rufo* counseled: "Rule 60(b)(5) provides that a party may obtain relief from a court order when 'it is no longer equitable that the judgment should have prospective application,' not when it is no longer convenient to live with the terms of a consent decree. . . ." 502 U.S. at 383-84, 112 S. Ct. at 760.

Not only does PHA misinterpret *Frew,* it ignores a number of key factual differences between *Frew* and the case at bar. Unlike the federal-state Medicaid program at issue in *Frew*[4], the Section 8 program that PHA operates is and

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[4] *Frew* involved the Medicaid program, "a cooperative federal-state program that provides federal funding for state medical services to the poor." 540 U.S. at 434, 124 S. Ct. at 901. "In contrast with the federal statute's brief and general mandate, the decree [at issue in *Frew*] required state officials to implement many specific proposals." 540 U.S. at 435, 124 S. Ct. at 902-03. Apparently,

always has been primarily a *federal* one. Established by a 1974 amendment to the U.S. Housing Act, having detailed federal statutory requirements and regulations, and funded entirely by the federal government, the program must be operated pursuant to federal law and detailed substantive regulations. PHA's role in the Section 8 program is to operate it within Philadelphia as directed by federal law.[5]

The decision in *Board of Educ. of Oklahoma City v. Dowell*, 498 U.S. 237, 111 S. Ct. 630 (1991) also must be distinguished. *Dowell* involved not a *consent* decree, but a decree entered after the district court held hearings and found that the public schools were unconstitutionally segregated. *Id.* at 241, 111 S. Ct. 633. The decree in *Dowell* imposed a detailed desegregation plan upon the local school district. Here, the Consent Decree treads much less heavily upon the local agency, PHA. Furthermore, this Court limited its decision in *Dowell* to school-desegregation cases:

> Considerations based on the allocation of powers within our federal system, we think, support our view that the quoted language from *Swift* [requiring a showing of "grievous wrong evoked by new and unforseen conditions" to release a defendant from a decree] does not provide the proper standard to apply *in school desegregation cases. Such decrees*, unlike

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no federal regulations fleshed-out the statute's brief and general mandate (the Court mentioned none).

[5] The Section 8 program has even less state or local character than does PHA's public housing program, which is not covered by this Decree (it was PHA's public housing program that was at issue in *Brown v. PHA*, 350 F.3d 338 (3d Cir. 2003)). For example, PHA does not own the housing units in the Section 8 Program.

> the one in *Swift*, are not intended to operate in perpetuity. Local control over the education of children allows citizens to participate in decisionmaking, and allows innovation so that school programs can fit local needs. . . .

498 U.S. at 248-49, 111 S. Ct. at 637-38 (emphasis added). Those considerations do not apply here, or at least they do not apply to a comparable decree, because the Section 8 program is at bottom a federal one.

One could hardly cite another federal program that involves state or local government in any way, which places less financial burden on the state or local agency than does the Section 8 program. Indeed, PHA concedes in its petition that "this particular Consent Decree does not require active court involvement in the day-to-day administration of PHA . . . ." PHA brief p. 18.[6]

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[6] PHA's argument, at p. 14, that "protecting the parties 'bargain' is peculiarly inappropriate . . ." because this is a class action, evinces PHA's fundamental confusion about, and perhaps hostility toward, class actions generally. Because the plaintiff class was certified, on Nov. 26, 1982, to include both Section 8 Tenants at that time and those who "may in the future be Tenants under Section 8 . . . ," App. p. 21a, it makes no difference whether the original named plaintiffs remain in the class. Today's class members have just as much right to enjoy the advantages of the Decree, as the original class members did.

Respondents also note that they cannot find this argument in PHA's briefs to the Third Circuit and, therefore, respondents suggest that PHA be deemed to have waived it.

B. The Third Circuit's decision does not conflict with the Eleventh Circuit's pre-*Rufo* decision *Hodge v. Dep't H.U.D.;* in the alternative, the *Hodge* decision does not reflect this Court's current precedents.

Straining to create the appearance of conflict between circuit courts, PHA asserts the Third Circuit's decision here conflicts with an 18-year-old, pre-*Rufo* decision of the Eleventh Circuit: *Hodge v. Dep't of H.U.D.*, 862 F.2d 859 (11th Cir. 1989). That assertion is without merit. *Hodge* must be distinguished because in *Hodge* (A) HUD had not published proposed regulations before the decree was entered; (B) the consent decree evidently contained nothing akin to ¶13 of the Decree here, and (C) there is no other indication the parties in *Hodge* anticipated the promulgation of regulations and made specific provision in the decree for them.

The circuit court in *Hodge* apparently failed to anticipate fully this Court's holding in *Rufo*. The *Hodge* court criticized the consent decree "because [it] mandates special notice requirements not imposed by Congress or HUD." *Id.* at 865. Without explanation, the *Hodge* court stated that the presence of "special notice requirements" in the decree put it in "conflict" with HUD's subsequent regulations and that the "conflict" warranted vacating the decree, unless the tenants could show the regulations did not satisfy the constitutional minimum for due process.[7] Insofar as *Hodge* may be read to

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[7] *Hodge* concerned procedures required when the housing authority sought to charge a tenant for the cost of repairing damage to a unit. Both the consent decree and the subsequent federal regulation required the authority to give the tenant advance notice of the cost and the authority's intent to charge her for it, and both provided her with the opportunity for a grievance hearing to dispute it. The decree, unlike the regulation, further required that the authority's

justify vacating a consent decree merely because it provides for more than the minimum required by the Constitution and more than the minimum provided by a subsequently promulgated regulation, *Hodge* does not survive scrutiny in light of *Rufo*. In *Rufo* this Court held that just because a consent decree may require a state or local government to do more than the Constitutional minimum, that does not warrant modifying the decree. This Court explained:

> Federal courts may not order States or local governments, over their objection, to undertake a course of conduct not tailored to curing a constitutional violation that has been adjudicated. But we have no doubt that, to 'save themselves the time, expense, and inevitable risk of litigation,' petitioners could settle the dispute over the proper remedy for the constitutional violations that had been found *by undertaking to do more than the Constitution itself requires* (almost any affirmative decree beyond a directive to obey the Constitution necessarily does that), but also more than what a court would have ordered absent the settlement. Accordingly, the District Court did not abuse its discretion in entering the agreed-upon decree, which clearly was related to the conditions found to offend the Constitution.
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> To hold that a clarification in the law automatically opens the door for relitigation of the merits of every affected consent decree would undermine the finality of such agreements and could serve as a disincentive

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notice specifically advise the tenant that she could file a grievance and how to do so. 862 F.2d at 860-61.

to negotiation of settlements in institutional reform litigation. The position urged by petitioners

> would necessarily imply that the only *legally enforceable* obligation assumed by the state under the consent decree was that of ultimately achieving minimal constitutional prison standards. . . . Substantively, this would do violence to the obvious intention of the parties that the decretal obligations assumed by the state were not confined to meeting minimal constitutional requirements. Procedurally, it would make necessary, as this case illustrates, a constitutional decision every time an effort was made either to enforce or modify the decree by judicial action. *Plyler v. Evatt*, 924 F.2d 1321, 1327 (4th Cir. 1991).

Rufo, 502 U.S. at 389-90, 112 S.Ct. at 762-63 (emphasis added; citations and footnote omitted). After *Rufo*, therefore, it is questionable whether *Hodge* remains good law, insofar as *Hodge* seems to hold that a consent decree must be vacated once regulations are promulgated which meet the Constitutional minimum.

PHA's professed concern that the Third Circuit's decision in this case somehow conflicts with one of its earlier decisions, *Brown v. P.H.A.*, barely deserves a response. 350 F.3d 338 (3d Cir. 2003). The Court of Appeals in this case aptly distinguished the decree at issue in *Brown* from this one, mainly because the *Brown* decree had nothing like ¶13, but also because the plaintiffs in *Brown*, unlike respondents here, failed to show that that decree "provide[d] greater protections than the HUD regulations and remain[ed] useful for tenants . . . ." App. pp. 9a-10a, n.3. In any event, the Third Circuit

correctly noted that the statement in *Brown* now cited by petitioner was mere dicta, so even if there were a real conflict (which there isn't) between the two Third Circuit cases, this Court would not need to concern itself with resolving it.[8]

C. PHA failed to establish that continuing to respect the Decree, as the Third Circuit ruled PHA must, will have any significant negative impact upon it, or upon other governmental entities.

PHA asserts that leaving the Consent Decree in force will have a "negative impact" upon it (and others). Even if that were true, a modest negative impact would not be sufficient to warrant vacating the Decree. *Rufo* teaches that when a consent decree governs state or local government and it requires the government to go beyond the Constitutional minimum, "a court should surely keep the public interest in mind in ruling on a request to modify based on a change in conditions making it *substantially more onerous to abide by the decree*. . . ." *Rufo*, 502 U.S. at 392-93, 112 S. Ct. at 764 (emphasis added). PHA did not show, in the lower court, that HUD's final regulations, or any other post-Decree change, have made it "substantially more onerous" for it to comply with the Decree.

As PHA concedes, the Decree hardly requires the district court actively to manage or supervise PHA's termination procedures. PHA brief p. 18. By its terms the Decree has no

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[8] PHA also professes concern for "uncertainty" it believes exists in the First and Fourth Circuit Courts of Appeal about the proper standard for testing consent decrees. *See* PHA pet. p. 17. The Consent Decree in this case, and the events which preceded and followed it, are rare enough that this case is hardly a good one with which to resolve such uncertainty, if indeed it exists.

bearing upon the substantive grounds for terminating a tenant from the Program. *See* ¶1 of the Decree. App. p. 38a. So long as PHA does not violate the Decree in a manner which would prompt the plaintiffs to seek its enforcement, the federal courts do not become involved at all. The Decree in this case is far less intrusive than, for example, the consent decree in the prison-reform case *Harris v. City of Philadelphia*, 47 F.3d 1311 (3d Cir. 1995) (decree contained detailed and expensive provisions governing prison operations), or the 80-page decree considered by this Court in *Frew*.

PHA made no factual showing about burden whatsoever in the district court. In its petition, PHA alleges only two supposed burdens attendant to the Decree, neither of which is significant. First, PHA claims the Decree's requirement that it give thirty days' advance notice before terminating Section 8 benefits (in contrast to the regulation which requires advance notice but does not specify any minimum period), "only delays valid terminations of assistance." This claim is misleading. As with almost any type of administrative (or judicial) appeal, it is inevitable that some Section 8 participants miss the appeal deadline *even though* they have a valid defense on the merits, simply because they do not understand or appreciate their rights, or are unable to exercise them.

Further, PHA's characterization of Section 8 terminations as either "valid" or invalid, disregards an important aspect of HUD's substantive regulations governing the termination of assistance. Many terminations are not the result of cut-and-dried application of binding law to simple facts, but rather are the product of PHA's exercise of discretion. *See, inter alia,* 24 C.F.R. § 982.552(c)(2) (giving housing authorities discretion to consider circumstances in making most

termination decisions). When a Tenant fails to appeal a termination, therefore, it is misleading to imply that the termination necessarily was "valid" in the sense of being indisputably "correct." The Tenant's failure to appeal may indicate instead that, for whatever reason, she failed to avail herself of the chance to present mitigating or other circumstances which might have persuaded PHA to exercise its discretion in her favor. For the many participants whose benefits would have been preserved had they appealed, the 30-day provision affords a modest measure of continued assistance before they lose the rent subsidy and, most likely, their homes.

The other supposed burden that PHA claims, relating to the selection of hearing officers, in fact is weightless. HUD's comment to the final regulations make it clear that it chose not to mandate the same level of detachment on the part of the hearing officer as the Decree mandates. But it is clear from HUD's comment that it was concerned that the hearing officer not be biased, and it strengthened the final regulation from its initial proposal to do so. HUD did *not* say that it meant to forbid a local housing authority from stipulating to the even stronger bias protection included in the Decree. *See* 49 Fed. Reg. 12,229-30. More generally, nothing in HUD's final regulations or HUD's comments shows that it intended to *forbid* local housing authorities from granting tenants *greater* protections than the regulatory minimum.[9]

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[9] Ironically, PHA's petition trivializes the differences between the Decree's protections and those provided by HUD's final regulations. For example, the ten-day appeal period afforded to Tenants under the Decree, PHA says, "is not significantly different" from the regulations, which guarantee no minimum appeal period. In taking that tack, PHA understates some of the benefits the Decree affords to Tenants. PHA also undermines its

Conclusion

For the reasons stated herein, as well as those articulated by the Third Circuit Court of Appeals, respondents respectfully ask that the petition for writ of *certiorari* be denied.

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own argument. Just as the Decree's protections for Tenants are relatively modest, when compared to the benefits mandated by the final regulations, the Decree's extra benefits hardly impose a significant burden upon PHA.

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