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Regulations Division
Office of General Counsel
Room 10276
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410-0500

RE: Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs
Docket No. FR 5743-P-01
RIN 2506-AC38

Thank you for the opportunity to comment on this proposed regulation. NAHMA commends HUD's continued efforts to streamline rules and reduce regulatory burdens. Our comments will focus on proposed changes which affect the Multifamily Housing and Housing Choice Voucher (HCV) Programs.

NAHMA is the leading voice for affordable housing management, advocating on behalf of multifamily property managers and owners whose mission is to provide quality affordable housing. NAHMA supports legislative and regulatory policy that promotes the development and preservation of decent and safe affordable housing, is a vital resource for technical education and information and fosters strategic relations between government and industry. Founded in 1990, NAHMA's membership today includes the industry's most distinguished multifamily owners and management companies.

Use of Actual Past Income (§5.609)

The rule would allow public housing agencies (PHAs) and multifamily housing (MFH) owners to define annual income as *either* actual past income *or* projected income. Actual past income would be based on amounts received prior to admission or the annual reexamination effective date, and would exclude the additional step of projecting income from this information. The proposal would also require PHAs to apply the same definition to all families in their HCV or public housing programs. Similarly, multifamily owners would have to use the same definition for all families in a single property.

NAHMA is intrigued by this proposal. Unfortunately, it may be difficult to implement it as currently drafted. First, requiring the owner to project income as a condition of using

streamlined annual reexaminations severely limits owners' ability to use actual past income. More than half of the families assisted through the Project-Based Section 8 Program include an elderly or disabled head or co-head of household. Presumably, these are the very families who would most benefit from the streamlined recertification process. If we assume the streamlined recertification process were widely employed in the Section 202 and Section 811 programs, the past actual income definition would be of little use in these properties.

Moreover, the proposed rule may inadvertently set owners up for non-compliance by requiring use of projected income if the tenant requests that definition of annual income. The preamble states,

“...the PHA or owner must use projected income if the family makes a request (for example the family may have experienced a decrease in income that would result in a lower family payment than would be calculated if income is defined as actual past income).”

Under this scenario, it would appear an owner who was using past actual income would be in noncompliance by using the projected income. NAHMA believes this issue can be addressed with some simple clarifications.

The option to use actual past income is appealing because it would help facilitate an alternative income verification policy requested by NAHMA. Our members strongly believe using information from tax returns would be one of the easiest ways to verify income. NAHMA has advocated for policy changes to allow multifamily owners and managers to rely on tax returns filed by residents and applicants for income verifications. Alternatively, income reported to the IRS could be incorporated into the Enterprise Income Verification (EIV) system. Under this option, the onus of certifying income would be placed on the government rather than the owner/agent. Not all tenants file tax returns, but this income verification option could simplify the process and reduce administrative costs. Of course, this option would be more viable if owners and agents (O/As) had the option to use actual past income –and if Treasury / IRS would share the income data through EIV.

Streamlined Annual Reexamination for Families on Fixed Incomes (§§ 5.657, 960.257, 982.516)

NAHMA applauds HUD for moving toward a more risk-based approach to income verification for households with fixed incomes. HUD explained, “The requirement to undertake the complete process for income verification and rent determination for families on fixed incomes is not necessary given the infrequency of changes to their incomes.” NAHMA strongly agrees with this rationale; however, we believe the threshold of 90 percent fixed income is preferable to the proposed 100 percent threshold.

The streamlined income verification process would allow PHAs and multifamily owners to recalculate family incomes by applying a published cost-of-living adjustment (COLA) for the fixed source of income to the previously verified income amount. If COLA information is not publicly available and cannot be provided by the tenant through a third-party document, then the standard verification process must be followed to determine the appropriate adjustment. For families with several sources of fixed income, the respective COLA or verified adjustment must be applied to each source. Calculation and third-party verification of adjustments to annual income (e.g., medical deductions, child care deductions) would still be required. Projected income must be used under this methodology. The streamlined procedures may only be used for families whose income consists entirely (i.e. 100 percent) of fixed income sources. The proposed rule defines “families with fixed income” as those whose income consists solely of Social Security payments, including Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI), or Federal, State, local and private pension plans.

NAHMA supports implementation of a streamlined income verification process for fixed-income families. In addition, we strongly encourage HUD to permit its use for families that receive at least 90 percent of their income from fixed sources. The 90 percent threshold is consistent with legislation introduced in Congress, the Tenant Income Verification Relief Act of 2015 (H.R. 233), as well as HUD’s own budget request for fiscal year 2016. NAHMA also strongly urges HUD to continue pursuing the statutory changes requested in its 2016 budget which would authorize PHAs and owners to recertify fixed-income families every *three* years.

Start of Assisted Tenancy (§ 982.309)

The rule would allow PHAs to limit move-ins for HCV holders to certain days of the month in order to streamline administration, reduce the need for pro-rated payments and eliminate overlapping HAP payments. To its credit, HUD acknowledged “this proposed change may have the unintended consequence of limiting tenant choice.”

Restricting move-ins would place HCV holders at a disadvantage to unsubsidized applicants. Therefore, NAHMA oppose this provision. The apartment industry relies on seamless turnover to meet its overhead costs. The financial implications of delayed move-ins could deter many owners from participating in the voucher program.

Thank you for your consideration of NAHMA’s comments.

Sincerely,



Kris Cook, CAE
Executive Director