

NAHMA News

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

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Sequestration Squeezes Affordable Housing

FY2013 Continuing Resolution Passes

CONGRESSIONAL ACTION IN MARCH AVERTED a shutdown of the federal government by producing a continuing resolution (CR) for fiscal year (FY) 2013 that incorporates \$85 billion in sequestration cuts in defense and domestic spending, including widespread cuts in multifamily affordable housing programs that will result in furloughs for HUD and other federal workers.

President Obama signed the CR on March 26, beating the potential shutdown deadline of March 27, which was the expiration date for the previous continuing resolution.

For the majority of programs, the continuing resolution will maintain the sequester as a deficit reduction tool for FY 2013. Domestic discretionary programs subject to sequestration cuts are to be shrunk by 5 percent for the remainder of FY 2013. Defense discretionary accounts are to be reduced by nearly 8 percent for the same time frame.

NEGATIVE CONSEQUENCES

Sequestering HUD's budget alone could result in a series of negative consequences, as pointed out by HUD, NAHMA and many other national organizations during the numerous deliberations on funding and long-term deficit reduction:

- Roughly 125,000 individuals and families, including elderly and disabled persons, could lose benefits from the Housing Choice Voucher program and be at risk of becoming homeless;
- More than 100,000 formerly homeless people, including veterans, would be removed from their current housing and emergency shelter programs;

continued on page 4

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In Dark Days, Remember the Light

AS THIS ISSUE OF NAHMA NEWS went to print, what wasn't supposed to happen was happening: drastic, across-the-board cuts known as sequestration were not averted by Congress, and instead, they went into effect and have begun to have real ramifications on federal affordable housing programs.

This is a dark cloud to have over our heads, and it may make us want to run for cover. We need to stand our ground, though, and continue to educate members of Congress and others about the importance of our work.

Fortunately, we do not stand alone. NAHMA has partnerships with more than a dozen other national organizations fighting for future funding of affordable housing. NAHMA also has its grassroots network of members who can use our advocacy tools to explain our positions to members of Congress. This network of colleagues and members is something to celebrate because, as we all know, there is power in numbers.

MORE REASONS TO CELEBRATE

It may also be tempting to think that we don't have reasons to celebrate.

Let's be reminded that the work we do is necessary, hugely important to the people who reside in our communities (and their families) and of the highest quality. All of us recognize housing as a basic right in this country; we stand for something that is just and good.

And we are a community within our own right. If you were at NAHMA's recent meeting in March, you benefited from the knowledge, networking and camaraderie that were present. You saw industry heroes being honored (see the

article on NAHMA's Industry Awards on page 20).

You saw owners and managers of the latest batch of Communities of Quality® Award Winners:

■ Exemplary Development for the Elderly: Restoration Towers, Detroit, MI; Owned by Community Outreach Services Corp., managed by Paragon Management, Inc.

■ Outstanding Turnaround of a Troubled Property: Riverwood Tower Apartments, Madison, TN, owned and managed by ALCO Management

■ Exemplary Development for Residents with Special Needs: Liberty Place, South Sioux City, NE, owned and managed by The Seldin Company

■ Exemplary Family Development: Newberry Estates, Williamsport, PA, owned by Williamsport Village Associates, LLC and managed by Community Realty Management, Inc.

You also saw the rescheduled poster auction bring in another \$40,000 for the NAHMA Educational Foundation's scholarship program.

EVEN BETTER NEWS AHEAD?

Regardless of what Congress does and doesn't do, NAHMA will continue to provide and improve upon the programs and services we offer our members. We're excited about our next national meeting this summer in San Diego. We'll be unveiling some exciting new grassroots advocacy tools that will better equip you and help us to get our message out. And we'll continue to shine a light on all of your good work, no matter what happens on Capitol Hill. **NN**
Kris Cook is Executive Director of NAHMA.

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■ 75,000 fewer households would receive foreclosure prevention, pre-purchase, rental, or homeless counseling through Housing Counseling grants;

■ The sequester would prevent state and local communities that receive HOME grants from building and rehabilitating 2,100 affordable housing units for low-income families; and

■ Significant cuts to community development funding for public services, facilities and infrastructure improvements will reduce confidence in the long-term sustainability of the private-market rental housing that HUD supports.

During the funding-level debates, the president and many members of Congress stated that sequestration was not planned to be an actual method for deficit reduction. Yet, with the lack of a proactive, agreed-upon alternative to deficit reduction, sequestration's impact will be felt in communities across the nation throughout the fiscal year.

Specific impacts of sequestration on HUD programs are outlined below. NAHMA strongly opposes cuts to affordable housing programs, particularly the rental assistance programs. As the specific impacts of the cuts unfold and agencies work further through the implementation of the funding decisions, NAHMA will keep members apprised.

Meanwhile, the Obama Administration was preparing to deliver its FY 2014 budget to Congress in early April, later than the usual timing for the submission (February). The Administration announced its delay in January to the House Budget Committee during the so-called "fiscal cliff" period.

The 2014 budget is certain to amplify current and existing funding pressures and policy issues on affordable housing programs. NAHMA will monitor developments in the upcoming budget debate and alert members to opportunities for intervention and action.

CR BACKGROUND

Since the beginning of the 2013 fiscal year (October 1, 2012), federal domestic and defense discretionary spending was under a continuing resolution because the Congress did not finish any of its 12 annual appropriations bills by September 30, 2012.

The House and Senate agreed to a CR that kept all discretionary programs funded at their FY 2012 levels for FY 2013 plus a less-than-1-percent increase authorized by spending caps established by the Budget Control Act of 2011 through March 27, 2013.

To resolve the lack of a funding mea-

sure for the remainder of the fiscal year, the House and Senate passed HR 933, now called the "Consolidated and Further Continuing Appropriations Act, 2013."

The Senate passed its amended version of the House continuing resolution HR 933 on March 20 with a recorded vote of 73 to 26. In a surprising show of bipartisan collaboration, the House also passed the Senate-amended CR with a recorded vote of 318 to 109 on March 21, setting the stage for Obama's signature on March 26.

APPROPRIATIONS BILLS AND CR

The original House CR (HR 933) contained two full appropriations bills for Defense, and for Military Construction and Veterans Affairs. Senate Appropria-

tions Committee Chair Barbara Mikulski (D-MD) and Ranking Member Richard Shelby (R-AL) included these specific funding bills in their manager's amendment to HR 933, plus three additional bills: Agriculture; Commerce, Justice and Science; and Homeland Security.

Unfortunately, the Transportation-HUD appropriations bill was not included in HR 933. This means HUD will receive its funding under the CR. Except for very limited exceptions, generally speaking, HUD programs will be funded at FY 2012 levels.

USDA Rural Development programs did receive updated FY 2013 funding levels under the Agriculture bill of the CR. These amounts will be subject to sequestration.

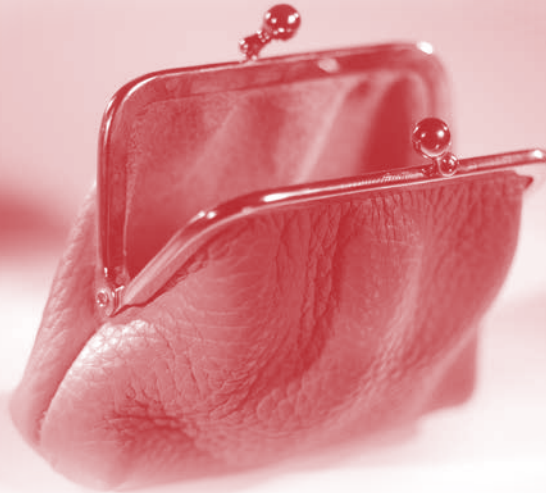
Furthermore, the Agriculture bill also includes an additional 2.53 percent across-the-board cut to funding. The bill directs OMB to report back the amount of the recession required for programs subject to the 2.53 percent cut within 30 days of enactment.

The FY 2013 Agriculture Appropriations listed are:

- Rural Rental Assistance Program: \$907.1 million. The Multifamily Housing Revitalization Program (MHRP) is set at \$27.8 million, including \$17.8 million made available for a demonstration program in order to preserve and renovate existing multifamily properties. Of the MHRP sum, \$10 million will be made available for rural housing vouchers for any low-income individuals/families residing in a Section 515 property;
- Section 515: \$31.3 million; and
- Section 538: \$150 million.

Under the CR, the FY 2012 levels used for HUD program funding for 2013 are:

- Project-based Section 8 Program: \$9.34 billion total, including \$9.04 billion for contract renewals;
- Housing Choice Voucher Program: \$18.9 billion, including \$17.2 billion for contract renewals;



- HOME: \$1 billion;
- Community Development Block Grants: \$2.95 billion;
- Section 202: \$375 million;
- Section 811: \$165 million; and
- Limited English Proficiency: \$300,000

CR AMENDMENTS

During the Senate debate, two noteworthy amendments were proposed to the CR. An amendment from Senators Tom Coburn (R-OK) and John McCain (R-AZ) would have limited federal agencies to sending no more than 25 employees to any domestic meeting—including private- and government-sponsored conferences.

(D-AK) that would have increased the FHA's multifamily and healthcare facility lending commitment authority by \$5 billion was not included in the CR. NAHMA will inform members if similar legislation is introduced in the future.

SEQUESTRATION AND HUD PROGRAMS

In a memo dated March 11, HUD alerted the affordable housing industry of plans to manage Section 8 Project-based rental assistance (PBRA) under the sequestration.

HUD outlined a plan of action “to minimize the potential impact of the Sequestration, and to assure that HUD is able to fund all HAP payments com-

first quarter of FY 2014.

■ All other multi-year Section 8 contracts will receive less than 12-month funding but will be provided sufficient funding to carry them into the first quarter of FY 2014.

The memo noted about 11,000 Section 8 contracts fall in this last category; on average, they will receive roughly 8.5 months of funding.

In a separate memo also issued on March 11, HUD alerted the industry to expect an impact on business operations and FHA multifamily and healthcare mortgage insurance production as a result of the sequester cuts. “At this time, the Department of Housing and Urban Development is

During the funding-level debates, the president and many members of Congress stated that sequestration was NOT PLANNED to be an actual method for DEFICIT REDUCTION. Yet, with the lack of a proactive, agreed-upon alternative to deficit reduction, sequestration's impact will be FELT IN COMMUNITIES ACROSS THE NATION throughout the fiscal year.

Fortunately, this amendment was not included in HR 933.

Instead, the CR contains new oversight provisions for conferences held by any executive branch department, agency and the like. Agencies will have to report certain information to their inspector generals for conferences which exceed certain spending thresholds.

NAHMA thanks members who contacted their Senators and voiced opposition to this amendment, which could have threatened the legislative education and advocacy process of associations such as NAHMA and the AHMAs.

Unfortunately, an amendment introduced by Senator Mark Begich

ing due during the current fiscal year.”

The memo noted, “The overall goal is to avoid payment disruptions during FY 2013 or early in FY 2014. Funding after that point will depend on Congressional appropriation action for FY 2014.”

The HUD plan responds to “a challenging budget environment” and includes the following:

- All Section 8 contracts expiring in FY 2013 will be renewed if eligible under current program rules and will receive full 12-month funding.
- All existing multi-year contracts that expire after FY 2013 and have anniversary dates in the first quarter of FY 2013 (October-December) will receive full 12-month funding, assuring sufficient funding to carry them into the

taking every step to mitigate the effects of these cuts, but based on our analysis, it is likely that the business processes of your members may be affected,” the memo noted. “For example, the sequester will require the Department to furlough staff and take reductions for systems maintenance and in other areas which may result in delays in processing mortgage insurance applications. ... In addition, there may be delays in loan closings, construction inspections, and other essential program activity.”

HUD FURLOUGHS

As a result of sequestration, almost all HUD employees will be furloughed for a period not to exceed seven days, and HUD will close its offices on those

scheduled furlough days.

Sequestration requires 5 percent across-the-board cuts to all budget account programs, projects and activities. HUD's salaries and expenses funding is subject to the sequester. HUD will also reduce its travel expenses, which are included in the same budget line item.

Affected Personnel. With very limited exceptions, all HUD full-time and part-time employees (including Schedule C, non-career SES and career SES employees) are subject to the furlough.

HUD Employee Impact. HUD's

nationwide will be closed on the days of scheduled furloughs. HUD believes the office closures are the best way to ensure:

- Safety and appropriate supervision of its employees;
- That the Department does not inadvertently violate (1) the Anti-Deficiency Act (which prohibits agencies from spending or obligating more money than provided in their appropriations or fund accounts, etc.); or (2) the Fair Labor Standards Act (which establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in

appropriations bill for the USDA.

USDA Rural Housing Service:

- Rental Assistance Program: -\$46 million;
- Multifamily Housing Revitalization Program Account: -\$1 million; and
- Rural Housing Insurance Fund Program Account: -\$26 million.

Department of Housing and Urban Development:

- Tenant Based Rental Assistance: -\$938 million, including -\$200 million in advance appropriation and -\$738 million in appropriation;

As a result of sequestration, almost all HUD employees will be FURLOUGHED for a period not to exceed seven days, and HUD will CLOSE ITS OFFICES on those scheduled furlough days. Sequestration requires 5 percent across-the-board cuts to all budget account programs, projects and activities.

sequester-related management of its workforce will operate under several key principles:

- The furloughs are mandatory, and employees will not receive pay for the furlough days.
- Furloughed employees will be in non-pay, non-duty status. Simply stated, they are absolutely prohibited from working on the furlough days. They cannot serve as unpaid volunteers.
- They must remain away from their workplace, and they are not permitted to telework, to access HUD email or to access HUD computer systems. Failure to comply with these policies will result in disciplinary action.

Furlough Scheduling. Furlough dates are slated for Friday, May 10; Friday, May 24; Friday, June 14; Friday, July 5; Monday, July 22; Friday, August 16; and Friday, August 30.

Office Closings. All HUD offices

the private and government sectors); and

- Better service to the public by having a full complement of HUD staff on the days HUD is open.

HUD offices are important resources for property owners and administrators. If there are changes to the furlough policies, NAHMA will keep members informed.

REDUCTIONS BY BUDGET ACCOUNT

In the appendix of OMB's March 1 "Report To The Congress On The Joint Committee Sequestration For Fiscal Year 2013," specific levels for sequester reductions were noted, including those for USDA and HUD programs. OMB's estimates were based on annualized levels of the first continuing resolution. The report was released before Congress passed HR 933, which included the full-year

- Project-based Rental Assistance: -\$470 million, including -\$20 million in advance appropriation and -\$450 million in appropriation;
- Community Development Fund: -\$965 million;
- Home Investment Partnership Program: -\$50 million;
- Housing for Persons with Disabilities: -\$8 million; and
- Housing for the Elderly: -\$19 million.

NAHMA's one-stop information center on its website, http://www.nahma.org/content/grassroots_sequestration.html, has additional background on the sequester.

NAHMA will keep members informed as the CR and sequester impact continues to translate into agency operations. NAHMA appreciates hearing from members on property and community impacts resulting from these recent funding actions. **NN**

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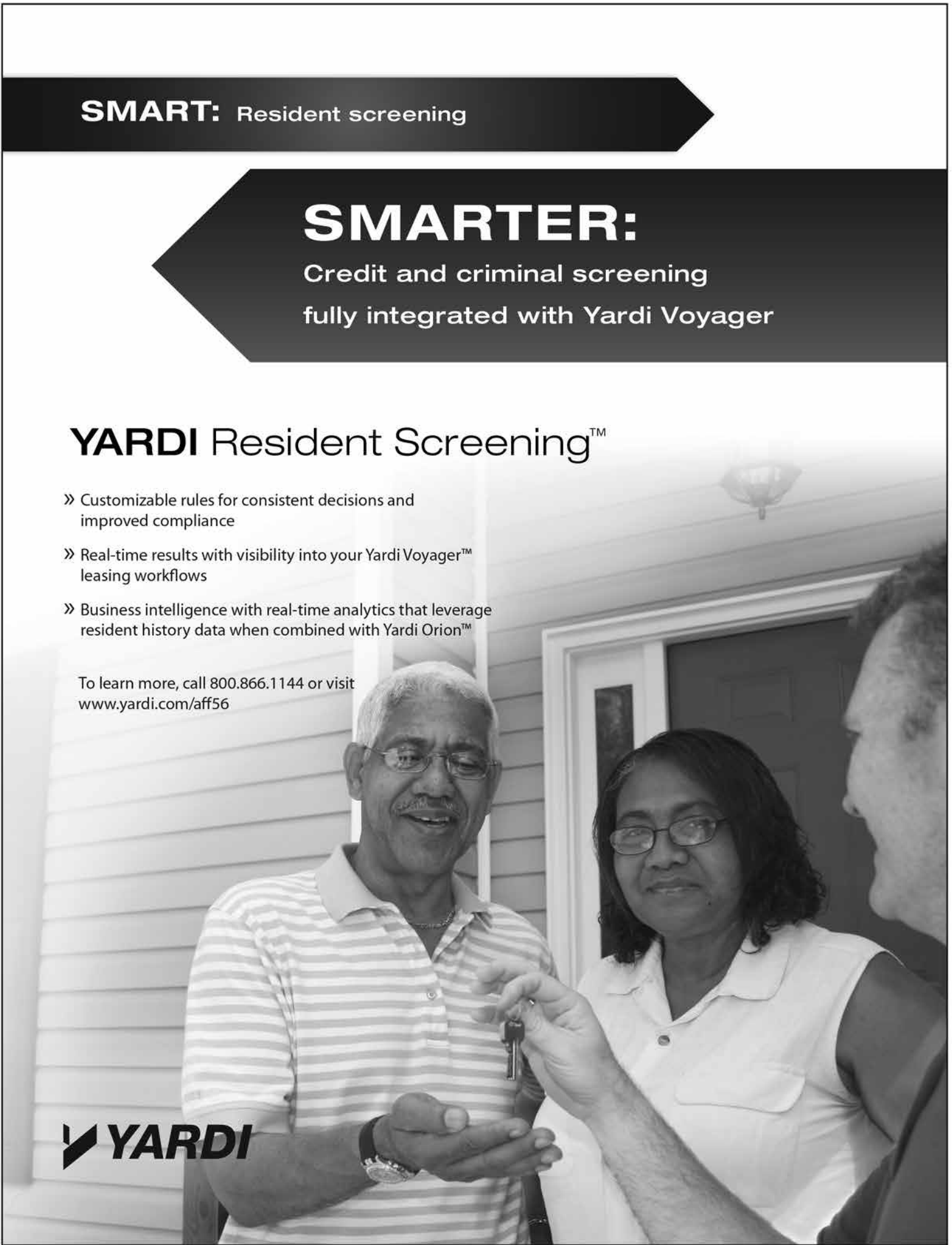
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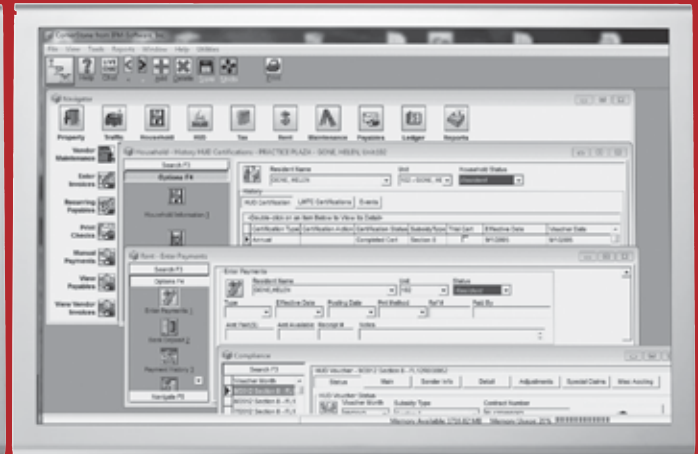
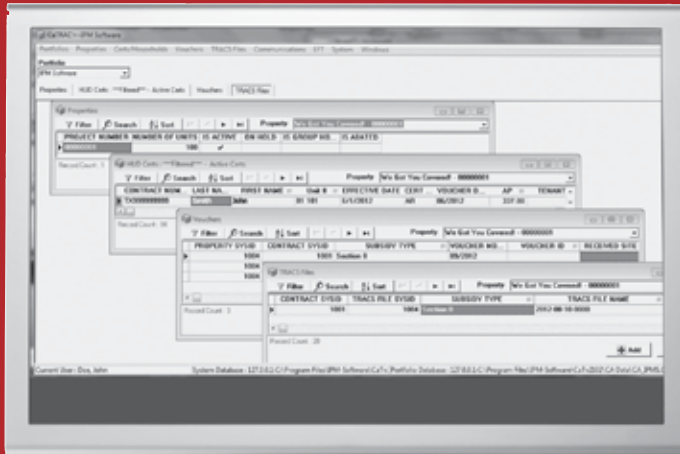
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Moving On to the Concurrent Budget Resolution

NOW THAT THE FY 2013 APPROPRIATIONS bills are in place and attention turns to FY 2014, there are lingering concerns about the budget prospects for affordable housing. Some of this concern is directly tied to the FY 2014 Concurrent Budget Resolution.

DEFINING THE CONCURRENT BUDGET RESOLUTION

Before we discuss why the budget resolution is important, let's talk about what it does. The "concurrent budget resolution," or "budget resolution," is a blueprint Congress develops to guide its own tax and spending legislation. It lays out a plan for the fiscal year beginning on October 1 and for at least each of the following four years. The budget resolution must include:

- Totals of new budget authority (agencies' authority to obligate funds through appropriations, borrowing authority or contract authority) which will result in outlays;
- Totals of outlays (cash or checks disbursed by the federal treasury);
- Total federal revenues (taxes) and the amount, if any, by which the aggregate level of federal taxes should be increased or decreased (separate legislation is required to change tax laws);
- The budget deficit or surplus;
- New budget authority and outlays for each major functional budget category, based on allocations of the total levels; and
- The public debt.

The budget resolution does not become a public law, so it does not need the president's signature. Both the House and Senate approved their respective FY 2014 budget resolutions by extremely narrow margins.

IMPACT OF THE FINAL PRODUCT

Here are a few reasons why the final product matters:

- The debate about repealing the sequestration ordered for 2013 will likely be settled in the FY 2014 Concurrent Budget Resolution.
- The accompanying budget documents are a strong reminder that we must continue making the case for federal rental assistance programs.
- Although the budget resolution does not become an official public law, it is used to establish binding guidelines for congressional committees that write spending bills.

There are major differences between the House and Senate Budget Resolutions, but let's focus on a few. First, sequestration receives very different treatment. The House preserves sequestration for FY 2013 and reduces discretionary spending in FY 14-21 with budget caps. The Senate fully replaces sequestration with a \$1.85 trillion deficit reduction package of spending cuts and new revenue. Other differences include assumptions about the importance and effectiveness of affordable housing programs.

Funding for Section 8 and other social safety net programs comes from Budget Function 600: Income Security. The summary of the Income Security sections in the committee reports leaves no question that affordable housing programs fare better in the Senate's budget. According to the House Report (H. Rept. 113-17 to Accompany H. Con. Res 25):

"The welfare reforms of the late 1990s are a success story of modern domestic policy, but they did not

go as far as many think. Reformers were not able to extend their work beyond cash welfare to other means-tested programs. **Notably, programs that subsidize food and housing for low-income Americans remain dysfunctional, and their explosive growth is threatening the overall strength of the safety net.** If the government continues running trillion-dollar deficits and experiences a debt crisis, the poor and vulnerable will undoubtedly be the hardest hit, as the federal government's only recourse will be severe, across-the-board cuts." (Emphasis added.)

On the other hand, the Senate Report (S. Rept. 113-12 to Accompany S. Con. Res. 8) calls for greater investment in affordable housing. It includes an additional \$600 million above the baseline for housing assistance. It stresses the need for federal investment to increase the supply of affordable housing. The report also calls on the federal government to be a more reliable partner with the private sector. It states, **"If Congress continues to create budgetary uncertainty that calls into question the full faith and credit of the nation, we will miss the opportunities to create these partnerships and make taxpayer dollars go further...."** (Emphasis added.)

Now the question is whether the House and Senate can agree on a common document before the April 15 budget deadline. Perhaps the "No Budget No Pay Act" (Public Law No: 113-3) will provide some incentive? **NN**

Michelle Kitchen is Director, Government Affairs for NAHMA.

New Fund Combines LIHTCs and NMTCs for Health and Housing

EDITOR'S NOTE: *This article first appeared in the March 2013 issue of the Novogradac Journal of Tax Credits. It is reprinted here with permission.*

IT LOOKS LIKE HOUSING COMMUNITIES have a healthy future ahead with the recently announced Healthy Futures Fund, an endeavor that will use low-income housing tax credits (LIHTCs) to finance affordable housing projects with integrated primary health care services and new markets tax credits (NMTCs) to finance new community health centers for underserved populations. The purpose of the fund is to make community health centers accessible to residents of affordable housing through a mix of new construction and rehabilitation, depending on financial feasibility and community needs. Morgan Stanley, The Kresge Foundation and the Local Initiatives Support Corporation (LISC) launched the \$100 million investment fund in January and it will be managed by LISC's affiliate, the New Markets Support Company (NMSC). Additional fund partners include National Development Council, NCB Capital Impact, Capital Link, Primary Care Development Corporation, Mercy Loan Fund and Opportunity Finance Network.

Partners in the fund expect to finance up to eight new community health centers that will serve approximately 75,000 individuals, and produce up to 500 affordable housing units. The fund has \$50 million in LIHTCs, \$43 million in loan capital enhanced with NMTCs,

\$4 million in pre-development financing and \$3 million in grants and credit enhancement. Morgan Stanley is investing \$63 million in LIHTC and NMTC equity. The Kresge Foundation, LISC and Morgan Stanley are also providing \$37 million in loan and grant capital.

Healthy Futures Fund will maximize efficiency, lower costs, streamline transactions and bring ready partners to the table, said Julie Gould who is president of Mercy Loan Fund, a community development financial institution (CDFI). "You're really taking advantage of efficiency by putting the tax credits

...the idea of combining LIHTCs and NMTCs isn't new, he said the fund was "the first large-scale effort to both finance health centers and integrate housing."

together as one-stop shopping," she said.

Amy Gillman, senior program director at LISC, agreed. "I think this is a new capital force that will help create a more effective and efficient financing model. Hopefully, it can be replicated and expanded in the future," said Gillman.

Kevin Boes, NMSC's president and CEO, said there were two primary factors that prompted the establishment of the fund. He said that federally qualified health centers (FQHCs) received a boost in capital funding in recent years through the Department of Health and Human Services grants but little to nothing of that funding remains. "A lot of health centers put together development plans and were applying for capital to build new health centers. That capital is all gone," said Boes, explaining that

the Healthy Futures Fund would enable development to continue.

Capital Link, which helped identify health care needs for the fund and will provide technical assistance to applicants, released report findings that health centers will need to double their patient capacity because of the Affordable Care Act of 2010. "There's a \$13.1 billion capital need for health care centers. They currently serve 22 million patients, and they're expected to serve 40 million as a result of health reform," said Allison Coleman, CEO of Capital Link.

The second reason behind the fund is

the need to better integrate health centers with broader community development initiatives. "[The fund] brings together a lot of the CDFIs and groups around the country that are already financing community health centers. The fund is a force multiplier in bringing us all together, increasing our capacity to help and combining new and existing financing resources," said Boes. While he acknowledged that the idea of combining LIHTCs and NMTCs isn't new, he said the fund was "the first large-scale effort to both finance health centers and integrate housing."

Coleman said that continued collaboration between health centers and low-income housing providers will help those who are in most need of quality health care. "All the research tells us that lower-income populations have higher rates of

chronic diseases, fewer options for healthy food and recreation space—let alone physical access to a doctor. These factors taken together place heavy burdens on low-income communities. The Healthy Futures Fund is a great step in the right direction to address these challenges,” Coleman said.

The fund will facilitate community participation and stimulate economies at a local level. “Health centers tend to be large employers in these communities, providing many jobs to multilingual, multiethnic community residents,” said Coleman. She said that a unique aspect

of FQHCs is that at least 50 percent of board members have to be users of the health services they provide. “This means that they’re deeply embedded and responsive to the needs of the community,” said Coleman.

Boes said that the fund has a rapidly growing pipeline of deals. The fund’s capital is closed and ready to be deployed, except for a portion of the NMTC allocation that will be provided by community development entity partners from a round that will be announced in April. The fund partners are currently seeking proposals for both affordable housing and

health center developments. **NN**

Teresa Garcia is staff writer for Novogradac & Company LLP.

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VAWA Reauthorized and Expanded

On March 7, President Obama signed the Violence Against Women Reauthorization Act (VAWA; P.L. 113-4), which expands the law's existing provisions to additional housing program. Programs now covered include Section 8 voucher and project-based programs, low-income housing tax credit properties, and a variety of elderly, disabled and rural housing programs.

The House of Representatives easily passed S 47, the Senate's version of the VAWA five-year reauthorization bill with a recorded vote of 286 to 138. S 47 passed the Senate with a recorded vote of 78 to 22.

Since the original passage of VAWA in 1994, survivors of domestic violence and

other gender-based assaults have turned to services made available through the act to help them deal with immediate peril as well as move toward rebuilding their lives. In 2012 alone, the administration estimates that VAWA-funded programs helped some 750,000 victims.

In addition, VAWA funds train over 500,000 law enforcement officers, prosecutors, judges and other personnel every year, according to a White House announcement on VAWA. The National Domestic Violence Hotline has answered over three million calls and receives over 22,000 calls every month, the statement noted.

VAWA EXPANDS REACH

VAWA was designed to strengthen and improve existing programs that assist victims and survivors of domestic violence, dating violence, sexual assault, and stalking. S 47 builds on a number of housing provisions from the act's previous reauthorization, which was signed into law (PL 109-162) on Janu-

ary 5, 2006. The legislation created new VAWA protections and extends them to the programs, which now include:

- Section 8 housing choice vouchers;
- Section 8 project-based programs;
- Low-income housing tax credit (LIHTC) properties;
- Sections 202 and 811; and
- All rural housing programs administered by USDA.

The VAWA reauthorization by the 113th Congress also adds new owner/agent (O/A) rights that clarify the

Since the original passage of VAWA in 1994, survivors of domestic violence and other gender-based assaults have turned to services made available through the act to help them deal with immediate peril as well as move toward rebuilding their lives.

self-certification issue. If the O/A finds inconsistent information in the self-certification document from the tenant, the O/A may require an applicant or tenant to submit third-party documentation from a lawyer, medical/mental health professional or an employee of a victim service provider.

The owner or agent of the housing is also required to provide tenants/applicants with their rights under VAWA in these circumstances:

- At the time the applicant is denied residency in a dwelling unit assisted under the covered housing program;
- At the time the individual is admitted to a dwelling unit assisted under the covered housing program; and
- With any notification of eviction or notification of termination of assistance.

S 47 set up specific mandates for emergency transfers as well, which allow the tenant to transfer to another available housing unit if:

- The tenant expressly requests the transfer;

■ The tenant reasonably believes that he or she is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit; and

■ In the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90-day period preceding the request for transfer.

NAHMA's preferred emergency transfer language was included in a substitute amendment to S 47 offered by Rep. Cathy McMorris Rodgers. The substitute would have allowed owners to voluntarily adopt

the emergency transfer plan, rather than require them to do so. Also, it did not require O/As to provide VAWA notifications at eviction. The substitute did not pass the House, and these changes did not make it into the final legislation signed by the President.

LEGISLATIVE PATH

The president's signing of VAWA culminated a long journey for the act, which was reauthorized in 2000 and again in 2005. The VAWA reauthorization of 2005 made it unlawful to deny an individual Section 8 housing assistance because the individual is a victim of domestic/dating violence. The law expired in September 2011.

The Violence Against Women Act of 2013 provides a five-year authorization for VAWA programs and reduced authorized funding levels by more than \$135 million, or 17 percent, from the law's 2005 authorization. Funding would be reduced further for fiscal 2013 because of an expected five percent sequestration cut. **NN**



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Industry Groups Comment on HUD SPRAC Notice

HUD has issued its proposed process for awarding the \$16 million made available in fiscal 2012 for the Senior Preservation Rental Assistance Contracts (SPRACs) under the Section 202 Supportive Housing for the Elderly Act of 2010.

According to HUD, the purpose of SPRACs is to prevent displacement of income-eligible elderly residents of Section 202 Direct Loan properties with original interest rates of 6 percent or less when the property is refinanced and the owner does not anticipate debt service savings from the refinance.

Through SPRAC, HUD is authorized to provide 20-year contract terms to deter displacement and to further preserve and maintain affordability. SPRAC will be administered by the Office of Affordable Housing Preservation (OAHP).

In response to the proposed process, NAHMA signed onto consensus comments submitted on behalf of owners and managers of eligible properties and other groups that support affordable housing preservation for low-income seniors.

The HUD notice (Docket No. FR-5667-N-01, "Supportive Housing for the Elderly; Advance Notice of Senior Preservation Rental Assistance Contracts Award Process") also lays out the associated criteria for establishing eligibility to apply for a SPRAC. The industry groups' collective comments focused on a number of key elements of the SPRAC advance notice, ranging from tenant income targeting to centralized versus field administration of the program.

POST-REFINANCING TENANT INCOME TARGETING

The advance notice proposes two eligibility pools for expressions of interest

in SPRAC funding: one for owners who commit to targeting very low-income tenants for future vacancies, and one for owners who do not. The industry groups urged a singular focus on the very low-income tenants.

"Given the scarcity of this resource, the compelling need, and uncertainty

Through SPRAC, HUD is authorized to provide 20-year contract terms to deter displacement and to further preserve and maintain affordability.

with regard to future funding, we recommend SPRAC funding only for those properties for which the owner agrees to make their best efforts to reserve turnover units for very low income seniors," the comment letter said. The groups also supported the requirement that eligible properties must commit to a 20-year subsidy contract and use agreement.

AWARD CRITERIA

HUD's proposed process would rank SPRAC applications meeting basic program criteria by maturity date. The two separate funding pools would be for:

Pool 1—All eligible projects with mortgages maturing on or before December 31, 2013. This would include 648 units currently active in the HUD database. This pool would also cover properties that refinanced or had mortgages mature since January 4, 2011, but which maintained their rental assistance and still have a need to protect remaining and future unassisted residents. (January 4, 2011 is when the act was signed into law.)

Pool 2—All other eligible projects, irrespective of mortgage maturity date. This pool would be ranked on the basis of the urgency of their repair needs, the development and management capacity of the owner, the proposed rehab, and

the viability of the proposal.

Under the second suggested pool, for example, properties with a very high percentage of non-assisted units would be considered to have relatively urgent needs for additional resources. Properties in this pool receiving the highest ranking after HUD review based on these

criteria would be awarded all remaining funds after successful Pool 1 properties receive awards.

On the issue of ranking applications by the earliest maturity date, the industry groups voiced concern that SPRAC assistance could be denied to projects with later maturity dates that have urgent repair needs and can't wait for their turn to participate in the SPRAC allocation process. They also urged expanding eligibility to:

- Projects that would have been eligible at the time of enactment of the law but which subsequently reached their maturity date; and
- Projects that had to refinance without SPRAC because guidance was not yet available.

TIMING OF SPRAC AWARDS

The industry groups proposed that HUD evaluate the recapitalization plan and the capacity of the proposed owner prior to the award of SPRAC contracts in the case of both owner preservation and transfer projects. Rather than require a complete prepayment submission that would incur costs, HUD should request a SPRAC application detailed enough to evaluate the proposal's strength and viability.

SPONSOR CAPACITY AND REHAB LEVEL

Looking to the long term and given the significance of the SPRAC resource, the industry group suggested that HUD hold applicants to a standard higher than a typical Section 202 prepayment review. HUD should focus on both the development and management capacity of the owner (existing or new) and the adequacy of the proposed rehabilitation plan.

Specifically, evidence of development and management capacity should include direct experience in renovating, owning, and managing HUD-assisted properties and tax credit developments if tax credits are proposed in the refinancing. “Appropriate entities would include owners that utilize the services of appropriate property management companies,” the comments stated.

PROPERTY CONDITIONS

The question of property condition and eligibility for SPRAC funding generated a ground-level concern from NAHMA and its industry counterparts.

Many of the portfolio properties are old and lack access to adequate resources to make repairs or improvements. But the advance notice’s eligibility criteria relating to Real Estate Assessment Center (REAC) inspections, Management and Occupancy Review scores, and lack of Departmental Enforcement Center open referrals could impede a transfer to new ownership if necessary and lead to ineligibility under SPRAC.

The letter argues that these issues “should not by themselves cause project ineligibility.” Rather, the SPRAC application could show how a SPRAC award will facilitate needed rehabilitation and overcome the existing deficiencies.

“HUD should not restrict applications based upon these criteria but should allow and actively encourage applications where the current owner or a preservation purchaser has a viable plan for using new SPRAC resources to facilitate necessary rehabilitation and management changes,” said the group’s letter.

PRE-REGULATION PROPERTIES

Properties eligible on the date the Section 202 Supportive Housing for the Elderly Act of 2010 was signed into law—January 4, 2011—should remain eligible for SPRAC awards even if the properties have already completed a prepayment transaction or reached maturity since that date, the group commented.

Noting that current and future residents of such properties still could lose affordability due to rent increases, further rehabilitation through SPRAC assistance may be a preferred alternative.

The group also recommended allowing properties that do not receive SPRAC awards under this funding round to be eligible to apply for future SPRAC funding, because “This would allow other properties to move ahead with immediately needed repairs and/or transfers now without forfeiting their ability to seek SPRAC later to preserve and maintain the affordability if additional resources become available.”

New Webpage for SPRACs Program

HUD HAS CREATED A RESOURCE WEBPAGE FOR THE SPRACs PROGRAM. This webpage houses HUD’s January 8 Federal Register Notice on the SPRAC program and a list of properties that are potentially eligible for SPRACs. The purpose of SPRACs is to prevent displacement of income-eligible elderly residents of Section 202 Direct Loan properties with original interest rates of 6 percent or less, when the property is refinanced and the owner does not anticipate debt service savings from the refinance. SPRAC is an important preservation tool for affordable multifamily properties.

SPRAC program information, and the potentially eligible property list, may be accessed through the following pages:

- HUD’s SPRAC page: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/presrv/presmfh/mf_sprac
- HUD’s Multifamily Preservation webpage, under the section entitled “Tools for Preservation of Section 202 Properties:” http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/presrv/presmfh; or
- On NAHMA’s HUD webpage under the Section 202/811 heading: www.nahma.org/member/hud.html.

RELIANCE ON COMPETITIVE 9 PERCENT LIHTCS

Tax credits are a crucial tool for property rehabilitation, and properties eligible for SPRAC could benefit from additional resources from 9 percent tax credits. However, the intense competition in most states for tax credits makes it difficult to predict whether a particular property will succeed in receiving an award.

“Therefore, we urge that an applicant have the option of submitting rehabilitation plans both with and without 9 percent credits,” the industry group commented.

For a copy of the full set of comments submitted by the industry groups, including NAHMA, visit the Section 202 issues section of the NAHMA HUD webpage at www.nahma.org/member/hud.html. **NN**

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Much to Discuss at NAHMA's Winter Meeting

NAHMA'S ANNUAL LEGISLATIVE ISSUES FORUM was held on March 24-26, 2013 at The Fairmont Washington, in Washington, DC.

The meeting was well attended, especially in light of the Congressional budget deliberations and the imposition of sequestration. Keynote remarks were made by Marie Head, Deputy Assistant Secretary, Multifamily Housing at HUD. Amy Showalter of The Showalter Group spoke on the topic of "Debunking the Advocacy Myth—It's Not as Hard as You Think!"

Informative panel discussions were held with HUD program staff; on the topic of "The Latest Trends in Preservation and Refinancing"; and with NAHMA's committees (TRACS and Contract Administration, Rural Housing, Tax Credits, Senior Housing and more).

In addition to the substantive topics and visits to Congressional representatives, participants attended the NAHMA Communities of Quality® Awards Luncheon, the Annual NAHMA Industry Awards ceremony and the NAHMA Educational Foundation Poster Auction and Reception (rescheduled from the cancelled-due-to-Hurricane Sandy fall meeting).

NAHMA's next national meeting, to be co-located with NAA, will be a Public Policy Issues Forum held on Wednesday, June 19, 2013 in San Diego. NAA's Annual Conference and Exposition will be held June 20-22. For more information on the summer conference, go to www.nahma.org. **NN**



LEFT: Amy Showalter presents "Debunking the Advocacy Myth."

CENTER: Dan Murray makes a bid on a poster.

RIGHT: Marie Head, keynote speaker at the COQ luncheon.

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The winter meeting wouldn't have been possible without the support of the following key sponsors:

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NAHMA Honors Leadership in Affordable Housing

AS IT HAS SINCE 2004, NAHMA PRESENTED ITS INDUSTRY AWARDS at its March meeting, held in Washington, D.C. The 2012 recipients included both individuals and organizations that have worked in innovative ways to improve affordable housing in their communities.

“NAHMA created these awards to highlight the high degree of professionalism and level of commitment so many in our industry demonstrate,” said NAHMA board member Bill Wollinger, SHCM, NAHP-e, President, WinnResidential, who served as the event host. “Those we honor tonight are just a few of the deserving individuals and organizations who inspire all of us every day. The work they do—the work all of us do—shows policy makers, elected officials and others that the need for affordable multifamily housing is great, and that the creation of affordable housing can be an asset to their communities.”

NAHMA EMERITUS MEMBERSHIP

Emeritus Membership acknowledges members nearing or in retirement who have provided active leadership to NAHMA in advancing its mission for a significant portion of their affordable housing career.



NAHMA conveyed Emeritus Membership status on long-time member Patty Ownby.

“Patty’s dedicated commitment and steadfast service significantly and positively impacted NAHMA’s vital mission to advocate for affordable housing,” Wollinger said in presenting the award. “Patty was also one of the first organizers of NAHMA, where she served on the board for many years. Perhaps her most outstanding contribution to NAHMA and our industry was her leadership in the development of NAHMA’s education programs and NAHP credential.” Ownby retired in May 2008 as president of American Apartment Management Company, Inc. of Knoxville, Tennessee.

NAHMA INDUSTRY STATESMAN

This is NAHMA’s highest award, presented annually to recognize a NAHMA member for many years of outstanding leadership and service to the affordable housing industry.



This year’s recipient was Conrad Egan. Egan’s career marks an unparalleled commitment to advancing quality affordable housing for Americans in need. He began his career in the 1960s working in a variety of affordable housing and community development positions in Detroit, Michigan. For some 10 years, he served as president and CEO of the National Housing Conference, a public policy and housing advocacy organization. He is the former executive director of the Millennial Housing Commission, created by Congress in 2000 as

part of that year’s appropriations process. The commission was directed by Congress to conduct a study examining the importance of housing, particularly affordable housing, to the infrastructure of the United States and exploring the possible methods for increasing the role of the private sector in providing affordable housing. In addition, Egan was an executive vice president of NHP, at that time the largest owner of affordable rental homes in the nation. He is a 20-year veteran of the Department of Housing and Development, where he served in various executive, field and staff positions. Egan also is the immediate past Chairman and currently serves as a board member of the Open Door Housing Fund, a community development financial institution dedicated to preserving affordable homes. He is the co-chair of the Fairfax County Affordable Housing Advisory Committee, appointed by the Board of Supervisors to provide advice on how best to support affordable homes. He also serves on the boards of the Community Preservation Development Corporation, the Northern Virginia Affordable Housing Alliance, Housing Virginia, the Fairfax County Initiative to Prevent and Eliminate Homelessness, and the Affordable Housing Conference of Montgomery County. He also serves on the Commonwealth of Virginia’s Housing Policy Group. In June 2008, Conrad was inducted into Affordable Housing Finance Magazine’s Housing Hall of Fame.

NAHMA PRESIDENT’S AWARD

This elite award is given each year to an individual selected by NAHMA’s president in recognition of a career of significant contribution to the affordable housing industry.



NAHMA President Gianna Solari made the presentation to Fred Tombar. Tombar currently serves as senior advisor to the Secretary of Housing and Urban Development for Disaster Programs. In this position, he has made a tremendous positive impact on localities that have suffered significant harm through major natural disasters. From coastal

New Jersey, New York and Connecticut pummeled by Hurricane Sandy; to Joplin, Missouri and Tuscaloosa, Alabama, laid bare by massive tornados; to New Orleans and environs devastated by Hurricane Katrina—to name a few—Tombar has been one of the key architects of support and its implementation.

In addition to his “day job,” Tombar is president of Tombar Consulting Group, a management consulting firm dedicated to helping organizations transform their business processes and improve their performance. In response to Hurricanes Katrina and Rita, Tombar and his firm helped direct a key project in the Road Home Program in Louisiana. This project served as the largest single housing recovery program in the history of the United States. Prior to forming Tombar Consulting Group, he had a previous engagement at HUD, where he worked in the Federal Housing Administration for seven years, including serving as the deputy assistant secretary for multifamily housing, where he managed operations for the development and asset management of more than 30,000 privately-owned multifamily housing projects, administered housing grant and subsidy programs of nearly \$8 billion in annual appropriations, and provided oversight to nearly 2,000 staff in fifty-one offices nationwide.

NAHMA INDUSTRY ACHIEVEMENT

Given to a NAHMA member who has exhibited significant or noteworthy leadership in recent activities.



NAHMA's Industry Achievement Award was presented to the Housing and Neighborhood Development Service, or H.A.N.D.S., recognized for its commitment and innovative approach to identifying and addressing the affordable housing needs of its community in Erie, Pennsylvania. A

private nonprofit founded by the Scalise family and others, H.A.N.D.S. uses a variety of funding support to build affordable housing. It operates 36 housing developments that rent to people with disabilities, low-income families and seniors. Over its 46 years, H.A.N.D.S. has provided affordable housing to 1,400 individuals in northwestern Pennsylvania. H.A.N.D.S. was recognized for its new plan to transform a long-vacant nursing home into a 20-unit apartment complex to assist homeless veterans and their families. This is a creative and committed approach to meeting a serious local and national need. In 2012, the Erie Veterans Affairs Medical Center served more than 400 homeless veterans and their families. Nationwide, the problem of homeless vets is so critical that the U.S. Veteran's Administration (VA) has pledged to eliminate homelessness among veterans by 2015.

In many locations, such as Erie, the profile of those seeking services has shifted from single vets to veterans and their families needing shelter. H.A.N.D.S. became aware of the high demand for housing for homeless Erie-area veterans as it helped the Erie VA place vets in some of its other housing units. H.A.N.D.S. plans to work closely with the Erie VA and other local service agencies to pair the veterans and families in the apartments with services they need, including mental-health counseling and help with financial planning and management. H.A.N.D.S. hopes the new complex not only helps veterans but also strengthens an important part of the city.

NAHMA INDUSTRY PARTNER

This award recognizes the furthering of excellence in affordable housing and the maintenance of high industry standards.



The Industry Partner Award was given to Walter Kreher, who directs HUD's Newark Multifamily Program Center and its portfolio of 725 multifamily properties. He is known for his compassion for tenants, owners and managers. Instrumental in establishing JAHMA, he also assisted in the formation of both Penn del AHMA and NY AHMA. He also helped in the

establishment of the JAHMA Educational Foundation and is an advisor to its “In Time of Need” furniture program with Thomasville Furniture of New Jersey. With his involvement, the JAHMA Educational Foundation has awarded over \$1 million dollars in scholarships and furniture installations over the last 10 years. Kreher is currently working with the foundation committee on a program to address the needs of wounded veterans. He also serves on the New Jersey Housing Mortgage Finance Agency Management Task Force, assisting management agents and owners in formulating and understanding regulations that affect the lives of thousands of tenants throughout New Jersey. He has provided the resources necessary to train managers and owners in all aspects of housing.

AHMA OF THE YEAR

The AHMA of the Year Award is presented to the AHMA that demonstrates outstanding success in its membership recruitment and retention, training programs, financial stability, frequency and attendance at meetings, and other factors. Regardless of size, these organizations go all out for their members and serve as role models for other AHMAs around the country:

Large: SAHMA (Southeastern AHMA)

SAHMA consistently supplies its members with a wide variety of educational opportunities across a region that includes eight southeastern states, Puerto Rico and the U.S. Virgin Islands. SAHMA hosts nine state level meetings throughout the spring and a regional conference in August. This was the eighth year



SAHMA hosted a meeting in Puerto Rico, and the attendance has increased annually. SAHMA also produces an outstanding website, publications, and e-learning opportunities, and is a resource in many other ways.

Medium: AHMA Pacific Southwest

AHMA PSW's commitment to outreach, training and its foundation has resulted in high rates of membership recruitment and



retention. AHMA-PSW is very proud of its projects for this past year, which include new and very well-attended training programs, advocacy programs in partnership with other California housing organizations, and popular webinars.

The PSW foundation hosted its first annual Golf Tournament and made 20 scholarships to member residents. The number of its National Communities of Quality® increased by 61 percent. AHMA PSW also boasted the grand-prize cover winner in NAHMA's 2012 Drug-Free Kids Poster Contest, in addition to three other national winners.

Small: JAHMA

JAHMA continues its success in membership recruitment, education and training course attendance, Communities of Quality®



properties, financial stability and growth, and with its Spring Management Event, a key to effective communications with regulators. In addition, its annual JAHMA Foundation fundraiser raised more than \$86,000 in 2012,

helping to bring the Foundation to the million-dollar mark in the amount of assistance made to residents of affordable housing across New Jersey in the last 11 years. Its award-winning IN TIME OF NEED furniture contribution program makes an immediate difference in the lives of residents.

AHMA MEMBERSHIP RECRUITMENT AWARD

This award is presented to those organizations who achieve outstanding recruitment of members in relation to their size and history.

This year's recipient was SAHMA. SAHMA recruited 43 new management-company members during the year. The renewal of 419 members translated to an 89.3 percent retention rate. The education and networking opportunities it provides are important reasons for this continuing strong rate of member support. SAHMA's recruitment and retention rate is no doubt due to the outstanding number and quality of programs and services it offers to its members.

AHMA INNOVATION AWARD

These organizations were recognized for innovative approaches to challenges at their sites and/or in their communities.

Large: SAHMA

The 2012 SAHMA state meeting season marked its 30th year anniversary. To honor this achievement, the SAHMA board of directors set a lofty goal: raise \$30,000 for the NAHMA Educational Foundation and by doing so, personally tell members the importance of this foundation. Each SAHMA state committee met the goal with enthusiasm and for the first time added a fundraising initiative to the state level meetings. What makes this new fundraising initiative innovative is not simply that SAHMA members were able to raise \$30,000 but that site-level members became personally invested in the NAHMA Educational Foundation. They read emails about the foundation before each meeting and visited the foundation website. They came prepared with money and the knowledge of how this foundation was going to touch the lives of their residents. SAHMA members are energized about the mission of the NAHMA Educational Foundation and already planning how they will raise more money in 2013.

There were co-winners in the Medium AHMA category:

Medium: NEAHMA

NEAHMA was honored for its response to the NAHMA Educational Foundation's challenge that each AHMA try and raise at least \$15,000 for its scholarship program by organizing a boat



cruise during the summer 2012 NAA/NAHMA conference held in Boston. The committee in charge of this event far exceeded expectations. Through the NEAHMA board's leadership and the generous contributions of its members, a

net contribution of some \$75,000 was provided to the NAHMA Educational Foundation. It couldn't have been done without the dedication and commitment of NEAHMA's management firm members, associate members and vendor partners, board members, staff and volunteers. NEAHMA has volunteered to help organize a similar event at this year's summer meeting in an effort to help another AHMA launch a similar fundraising effort.

Medium: PAHMA

PAHMA had innovative success in the area of continuing education. Since Pennsylvania's continuing education classes in real



estate are targeted to single-family home sales and not property management, PAHMA piloted a program for affordable housing staff to earn continuing education credits in seminars covering relevant information

to their field by partnering with a Pennsylvania-accredited real estate school. The two courses offered were so successful that they were accredited by the state. PAHMA intends to hold future accredited seminars as a service to its members.

Small: PennDel AHMA

This past year PennDel AHMA's board of directors actively promoted the scholarships available through the NAHMA Educational Foundation. It



promoted the program at membership meetings, trainings and in its spring 2012 newsletter. Its efforts were successful, and many residents applied for scholarships, resulting in 11 residents being awarded scholar-

ships in the amount of \$12,500. The excitement has motivated PennDel AHMA's members to raise an additional \$25,000 in 2012 for the NAHMA Educational Foundation.

AHMA COMMUNITIES OF QUALITY® AWARDS

These awards acknowledge AHMAs with superior numbers of COQ properties and active COQ recruitment and recognition programs.

Large: SAHMA

SAHMA members continue to support the Communities of Quality® National Recognition Program. With an additional 33 COQ program members, SAHMA currently has 347 properties that have been accepted into the program. SAHMA continues to make

presentations at each state meeting, market the program, and honor and reward its participants with signage, ribbons, free banners and other incentives.

Medium: NEAHMA

NEAHMA received this award for having the most active COQ program for a medium-size AHMA. To date, NEAHMA has had 236 properties participate in the program, and it has one of the most active annual application programs of all AHMAs.

Small: PennDel AHMA

PennDel AHMA continues to grow and now has 51 Communities of Quality® members. Three management company members of PennDel AHMA are COQ Corporate Partners, a distinction held by only 15 companies across the nation.

NAHMA COMMUNITIES OF QUALITY® AWARDS

These annual awards are given to the NAHMA members who have the most new, or most overall, properties listed on the NAHMA National Recognition Program COQ Registry (based on data maintained by NAHMA staff). These awards are a testament to the exceptionally high standards maintained by these properties, and their commitment and support in furthering NAHMA's mission.

MOST NEW IN 2012: Peabody Properties, Boston, MA

MOST OVERALL AS OF 12-1-12: WinnResidential, Boston, MA

100% OF THE AFFORDABLE PORTFOLIO: PRD Management, Pennsauken, NJ. PRD Management is exceptional in that it is the only management company that has earned COQ recognition for every single affordable property in its portfolio – a feat it alone has accomplished to-date. **NN**



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CLOCKWISE FROM TOP LEFT:
Peabody Properties;
WinnResidential; **PRD Management**



HUD Issues Disparate Impact Guidance

HUD's final rule on disparate impacts in housing contains clarifications on discriminatory effects liability, formalizes a burden shifting test, and offers new examples of discriminatory housing practices.

"Implementation of the Fair Housing Act's Discriminatory Effects Standard: Final Rule" (24 CFR Part 100) took effect March 18. Discriminatory effects in housing include acts that actually or predictably result in a disparate impact on a group of persons, or create, increase, reinforce, or perpetuate segregated housing patterns because of race, color, religion, sex, handicap, familial status or national origin, according to HUD's Fair Housing and Equal Opportunity office.

In the final rule, HUD notes, "Through four decades of case-by-case application of the Fair Housing Act's discriminatory effects standard by HUD and the courts, a small degree of variation has developed in the methodology of proving a claim of discriminatory effects liability. This inconsistency threatens to create uncertainty as to how parties' conduct will be evaluated.

"This rule formally establishes a three-part burden shifting test currently used by HUD and most federal courts, thereby providing greater clarity and predictability for all parties engaged in housing transactions as to how the discriminatory effects standard applies."

The rule establishes a consistent

standard for evaluating claims that a "facially neutral practice" violates the Fair Housing Act. A "facially neutral practice" is one that does not appear to be discriminatory on its face but may be discriminatory in its application or effect. The rule also incorporates that standard in HUD's existing Fair Housing Act regulations (24 CFR 100.500).

HUD's final rule makes official the department's long-held recognition of discriminatory effects liability under the Fair Housing Act. It also formalizes a burden-shifting test for determining whether a given practice has an unjustified discriminatory effect, leading to liability under the act:

- The charging party or plaintiff first bears the burden of proving its prima facie case (legally sufficient to establish a fact or a case unless disproved) that a practice results in, or would predictably result in, a discriminatory effect on the basis of a protected characteristic;
- If the charging party or plaintiff proves a prima facie case, the burden of proof shifts to the respondent or defendant to prove that the challenged practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests;
- If the respondent or defendant satisfies this burden, then the charging party or plaintiff may still establish liability by proving that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect.

Finally, the rule adds to and revises illustrations of discriminatory housing practices found in HUD's Fair Housing Act regulations.

For a copy of the rule as published in the Federal Register, visit the Fair Housing Issues area of the NAHMA HUD webpage, at <http://www.nahma.org/member/hud.html>. **NN**



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NAHMA Opposes USDA-Proposed Penalties

On February 4, NAHMA submitted comments to the U.S. Department of Agriculture in response to the Rural Housing Services' Proposed Rule on Civil Monetary Penalties (CMPs).

The rule would allow USDA-RHS to impose CMPs against any person (including owners, officers, directors, general partners, limited partners or employees) who knowingly and materially violate, or participate in the violation, of any laws, regulations or agreements related to the Section 515, Section 521, Section 514, Section 516 and Section 542 housing programs.

The violations stated in the rule include submitting false information, including certifications, to USDA-RHS; failing to submit information requested in a timely manner; failing to maintain a property in good repair and condition, as determined by USDA-RHS; failing to provide management that is acceptable to the agency; or failing to comply with

the provisions of applicable civil rights statutes and regulations.

NAHMA's rural housing committee reviewed the proposed rule. NAHMA responded and reported in the letter that it cannot support the rule in its current form, stating that it does not "object to RHS's goal of updating its rules for implementing CMPs per se."

"In this case, however," the letter continued, "the proposed rule is too broad. It completely fails to define the number and scope of penalties. The examples of covered actions subject to CMPs are not all-inclusive. Likewise, a reasonable person cannot determine exactly which individuals and/or entities RHS would pursue CMPs against for specific violations."

NAHMA members are extremely concerned that the proposal fails to recognize the difficulty of maintaining properties in the absence of adequate resources. They are deeply troubled by the prospect of facing CMPs related to the physical or financial condition of

properties for which RHS has denied rent increases or additional rental assistance necessary to improve the properties.

The proposed rule does give considerable thought to due process procedures for the individual and entity respondents. NAHMA agreed that notification procedures and the right to request a hearing with the USDA Office of Administrative Law Judges are appropriate administrative mechanisms.

Nevertheless, NAHMA said "it is imperative for RHS to more clearly limit and define the scope of this proposed rule. We strongly urge RHS to produce an itemized list of actions for which the Agencies will seek CMPs, the scope and amount of those penalties and who will be subject to them. This list should be released for public comment prior to finalizing the CMP rule. Finally, this list should be included in RHS' final rule."

NAHMA will keep its members apprised of any forward movement on this rule. **NN**

Industry Urges Rental-Assistance Reform Legislation

IN LATE FEBRUARY, NAHMA AND 19 OTHER STAKEHOLDERS IN affordable housing sent a letter to members of the Senate Banking Committee urging them to enact rental assistance reform legislation early in 2013. The Banking Committee had held two important hearings in the second half of 2012 that highlighted the pressing need for rental assistance reform and the broad consensus behind the core reforms.

Calling this "good government legislation," the letter urged the committee to act promptly because "... the savings and efficiencies it would create are urgently needed and should be enacted in time to take effect in fiscal year 2014." Noting that HUD's rental assistance programs face difficult budget pressures, "reform legislation would help state and local agencies stretch limited funds and minimize the risk of harsh cuts in assistance to needy families," the letter stated.

The letter included a list of 10 specific, high-priority reforms that could be included in the legislation. "These reforms would reduce program costs by more than \$2.5 billion over five years, according to the Congressional Budget Office," the letter stated.

In addition to having broad support from state and local housing agencies, low-income housing advocates, for-profit and non-profit affordable housing providers, and other stakeholders, the proposed reforms have all been vetted by Congress in previous sessions, and most were included in the Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA) developed by the House Financial Services Committee in and circulated on April 13, 2012.

The co-signers urged legislation to:

- Streamline voucher housing quality inspections and protect families living in units where repairs are needed to meet quality standards.
- Streamline rent calculations and income determinations, including in the sharing of income data between housing and food assistance agencies.
- Modestly raise rental-assistance income targeting limits to admit more working poor families, particularly in rural areas.
- Make housing agencies' voucher funding allocations more stable and predictable while still permitting appropriators to set the overall annual funding level.
- Provide agencies additional flexibility to enter into "project-based" voucher agreements to preserve and develop affordable housing.
- Make the admissions process for the housing voucher program more fair and effective at serving homeless applicants by limiting screening to criteria related to suitability as a tenant.
- Provide for HUD to make available translations of key forms and documents for assisting recipients with limited English proficiency.

The reforms ease administrative burdens for housing agencies and owners, deliver more fair and efficient assistance to low-income families, provide new tools to leverage private capital for affordable housing preservation and development, and encourage self-sufficiency, the letter stated.

NAHMA will keep its members apprised of any legislation supporting these reforms. **NN**

Scholarship Program Anticipates Successful 2013

THE NAHMA EDUCATIONAL FOUNDATION'S Scholarship Program will select the 2013 NAHMA Scholars during the month of June. This will mark the sixth consecutive year of making scholarships available to NAHMA- or AHMA-member resident students since the program began in 2007.

To date, over 200 scholarships have been awarded worth over \$210,000. More than 40 individuals have graduated from their respective programs while receiving NAHMA funding.

A strong response from applicants marked the opening of the application window in February and seems to be carrying through as the May 24th deadline date for completed applications approaches. Prior to the release of this year's application, the NAHMA Educational Foundation appointed a task force, made up of members of the foundation board and chaired by Nancy Hogan of First Realty Management in Boston, to review and revise the application in an attempt to make it more applicant friendly. The task force's goal was to end up with more completed applications in 2013.

More completed applications coupled with the very successful year the Foundation had in fundraising should result in a larger total amount of money being awarded to a larger number of recipients.

"The Foundation is very, very hopeful that the scholarship program will have a record year as a result of our fundraising efforts and the task force's efforts in revising the application," said Foundation Chairperson Wayne Fox. "The foundation has established a proud tradition of assisting NAHMA scholars living in affordable apartment communities around the country. This year, we hope to be able to recognize more of them by making more scholarships available."

There is still time left for residents to apply, so NAHMA members are encouraged to let their residents attending community college, a college or university, or a trade or technical school know about this opportunity.

The 2013 application can be found by going to the NAHMA website at www.nahma.org and clicking on the "NAHMA Educational Foundation" icon. All applications must be filed online. Anyone with questions can contact Dr. Bruce W. Johnson, NAHMA Scholarship Program Administrator, at bwjec@comcast.net. NN

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REGULATORY WRAP-UP

HOUSING NOTICE 2013-06, ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM, was issued March 12, 2013. This Notice supersedes Notices H 2011-21, H 2008-03, H 2009-20, and H 2010-10. The notice is posted on HUDCLIPS at <http://portal.hud.gov/huddoc/13-06hsgn.pdf>.

The revised Notice:

- Adds Section 811 Project Rental Assistance Demonstration units under a Rental Assistance Contract to the Applicability section (Section II).
- Includes a description of the active link found in the Identity Verification Report Statistics. The resulting report identifies the number of households represented as not-verified (verification in process) (Section VII).
- Modifies the name of the No Income Report to No Income Reported by HHS or SSA (Section VII).
- Includes a description of the new report No Income Reported on 50059 and discusses how the report should be used (Section VII).
- Identifies the New Hires Report as a Verification Report along with its previous location in the Income Reports section of the system (Section VII).
- Allows a violation for an owner/agent not having access and/or not using the EIV system in its entirety to be identified and the penalty to be assessed outside the scope of the MOR (Section XI).

HUD NEWS

HUD HAS DEVELOPED A “SMOKE-FREE HOUSING TOOLKIT” posted to the Office of Healthy Homes and Lead Hazard Control’s (OHHLHC) website. The document, is available online at <http://portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1>.

IN EARLY MARCH, HUD PUBLISHED A HOUSING NOTICE AND MORTGAGEE LETTER about concentration of principal risk. The notice clarifies guidance and processing procedures describing how lenders can obtain prior approval in order to receive FHA’s consideration for additional mortgage insurance commitments when the principals will have total insurance in place. The notice has been posted to NAHMA’s website under the HUD webpage. **NN**

RD PUBLISHES POLICY CHANGES

Over the last few months, RD has published a number of rural housing policy changes that NAHMA members should also be aware of. They are as follows:

RD DECEMBER UNNUMBERED LETTERS

• **“Direct Loan Programs: Multi-Family Housing Occupancy Standards” (December 13, 2012):** The purpose of this Unnumbered Letter (UL) is to reiterate and clarify policies outlined at 7 CFR 3560.155 (e) and HB-2-3560, Asset Management Handbook, Chapter 6, concerning Occupancy Policies in Rural Development Section 515 and Section 514 Direct Loan properties. Borrowers must develop and follow occupancy standards that take into account the size and number of bedrooms needed based on the number of people in the family. Occupancy standards serve to prevent the over- or underutilization of units that can result in an inefficient use of housing assistance in general and Rental Assistance, specifically.

• **“Fiscal Year 2013 Site Manager of the Year Recognition Program” (December 11, 2012):** The purpose of this UL is to announce the guidelines for RHS’s annual Multi-Family Housing Site Manager of the Year program for Fiscal Year (FY) 2013. Awards may be presented in each of the following three categories: (1) Site Manager of the Year for Housing for the Elderly; (2) Site Manager of the Year for Housing for Families; and (3) Site Manager of the Year for Farm Labor Housing. Award winners will be determined in the spring.

Copies of all the December ULs may be found at www.rurdev.usda.gov/SupportDocuments/uldecember12.pdf.

RD NOVEMBER UNNUMBERED LETTERS

• **Multi-Family Housing—Optional Smoke-Free Housing Policy (November 21, 2012):** This Unnumbered Letter (UL) is reissued to provide continued guidance for Multi-Family Housing (MFH) borrowers should they choose to implement optional smoke-free housing policies. This guidance is similar to previous guidance provided by the U.S. Department of Housing and Urban Development, and replaces the Unnumbered Letter last issued on December 29, 2010.

RD ADMINISTRATIVE NOTICE NO. 4692 “PROCEDURE FOR ORDERING COMPREHENSIVE AND INDIVIDUAL CONSUMER CREDIT REPORTS FOR SINGLE FAMILY AND MULTI-FAMILY HOUSING” (NOVEMBER 8, 2012)

This Administrative Notice (AN) provides guidance on ordering Comprehensive Credit Reports from Experian, for Single Family Housing (SFH) and Multi-Family Housing (MFH) programs. Additionally, this AN includes guidance on ordering individual consumer credit reports on the owner/principal(s) from CBCLInnovis. Comprehensive credit reports are required for SFH general or dealer/contractor approvals and MFH loan making, including Farm Labor Housing (FLH). This AN replaces AN 4649 issued in May 2012.

All of this information has been posted to the NAHMA RHS website, which can be accessed at www.nahma.org/member/usda.html. **NN**

Optimizing a Preeminent Affordable Housing Search Engine

WHEN DAVE LAYFIELD GRADUATED from college, he went to work for his uncle, an affordable housing developer, owner and manager in Maryland. Layfield learned the business very quickly. “I had a stint as a property manager, learned development and construction management, marketing and leasing—the whole thing,” he said. But after just a short two years on the job, his uncle died suddenly from a brain aneurysm “and it was one of the most traumatic experiences of my life,” he said.

He had only been involved in affordable housing for two years, but he knew that he would make a career of it. Not long after his uncle’s tragedy, Layfield found himself working for a nonprofit developer on the Delmarva Peninsula. During this time, he developed nearly a dozen multifamily properties in Maryland, Delaware and Virginia.

FROM HOBBY TO BUSINESS

In 2000, Layfield took a job with USDA’s Rural Housing Service in Washington, D.C., managing its Section 514/516 Farm Labor Housing Program and participating in various loan making and servicing roles for the Section 515 Rural Rental Housing program.

Long a tinkerer with computers who never had a single computer class, Layfield took on a hobby he hoped would fill a niche he’d noticed was missing. “I realized there were plenty of ways to find market-rate apartments online but no way for lower-income people to find information online for affordable apartment communities,” he said.

Layfield taught himself everything he needed to know about developing a

database, building and managing a website and understanding things like Search Engine Optimization (SEO). For about five years his “little web site” was a one-man operation. “Like Google in the early days, I didn’t have a business model,” he said. “I saw a tremendous unmet need and didn’t care about monetizing it. As low-income renters discovered the website and Internet usage among lower income persons skyrocketed, the business model fell into place.”

In 2002 he launched AffordableHousingOnline.com, the first online directory for affordable housing. Eleven years later it’s very much a business and receives more traffic than any other affordable-only Internet Listing Service, with more than 3.4 million users in 2012.

“We are a well-established authority on the subject of affordable housing and have a high degree of credibility in the eyes of search engines. This puts us at the top of the page for tens of thousands of search terms.”

“We just redesigned the entire site from the back to the front employing the most cutting edge improvements in site speed and search engine optimization. These improvements will send even more renters to our clients’ properties and see us into the next several years of our growth,” he said.

In addition to being CEO of ApartmentSmart.com, Layfield also has an affordable housing development company, Green Street Housing, and develops tax-credit properties back in his hometown of Salisbury, Maryland.

Always a student of the Internet,



Layfield met his wife Jay online in early 1999, long before online dating was fashionable. After a year-long Trans Atlantic romance and several trips back and forth to visit her in her native Germany, they were married. Thirteen years later,

Layfield and his wife are raising two children, now seven and 10. “My family keeps me very, very busy,” he said. “They’re the most important thing in my life; they’re the reason I work so hard and they always come first.”

CONTRIBUTING MORE THAN A SERVICE

As a good steward of the affordable housing community, Layfield has helped both the Council for Affordable and Rural Housing (CARH) and NAHMA with projects to aid in their advocacy efforts.

NAHMA Maps displays all of the affordable rental housing in an area, broken down by Congressional district, county or state. Currently Layfield is improving NAHMA Maps, adding more features, making it easier for NAHMA members to contact their members of Congress, making it faster, improving the back-end platform it’s running on, and taking additional steps in shoring up the underlying data to make it the most reliable information available to affordable housing advocates.

Layfield also serves on NAHMA’s Affordable 100 Task Force, helping gather and compile data.

With two fulltime jobs, an active family and a willingness to volunteer, Layfield is still a contributor to the cause of affordable housing. **NN**

EDUCATION CALENDAR

For information on specific classes being offered, please contact the AHMA or organization directly. All dates and locations are subject to change. For the most up-to-date listings, visit the NAHMA website at www.nahma.org/content/mem_calendar.html.

APRIL

9-11

CPO

Murfreesboro, TN
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/cpo

10

FHC

Quincy, MA
Julie Kelliher, NEAHMA
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www.neahma.org

15

Basic Apartment Management, Module 6 "Understanding Insurance and Liability"

San Diego, CA
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

16

Basic Apartment Management, Module 6 "Understanding Insurance and Liability"

Long Beach, CA
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

16-18

Mississippi State Meeting

Jackson, MS
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/mississippi

17

Fair Housing for Managers

Pittsburgh, PA
Paula Bresnei, PAHMA
(856) 786-9590
www.pahma.org/calendar_education.php

18

Spring Conference for Maintenance with Fair Housing

Pittsburgh, PA
Paula Bresnei, PAHMA
(856) 786-9590
www.pahma.org/calendar_education.php

18

Basic Apartment Management, Module 3 "Maintenance"

Phoenix, AZ
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

23-25

Florida State Meeting

Jacksonville, FL
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/florida

CPO

Dedham, MA
Julie Kelliher, NEAHMA
(781) 380-4344
<http://www.neahma.org>

29

FHC

Santa Barbara, CA
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

30

FHC

Malvern, PA
Gerri Aman, PennDel AHMA
(856) 786-2183
www.pennadelphama.org/events.html

MAY

7-9

North Carolina State Meeting

Greensboro, NC
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/north-carolina

8-9

Tax Credit/SHCM

TBD
Jennifer Diehl, AHMA NCNH
(510) 432-2462
www.ahma-ncnh.org

13-16

Kentucky State Meeting

Louisville, KY
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/kentucky

14-15

Tax Credit/SHCM

Columbus, OH
Audra Garrison, MAHMA
(888) 242-9472
www.mahma.com

15

Interviewing applicants / Residents and Marketing

Pittsburgh, PA
Paula Bresnei, PAHMA
(856) 786-9590
www.pahma.org/calendar_education.php

19-21

AHMA-PSW Annual Seminar

Los Angeles, CA
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

20-22

Tennessee State Meeting

Murfreesboro, TN
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/tennessee

21-22

SHCM (AHMA-PSW Annual Seminar)

Los Angeles, CA
Jennifer Diehl, AHMA PSW
(866) 698-2462
www.ahma-psw.org

22-23

Tax Credit/SHCM

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JUNE

6

FHC

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www.jahma.org

10-12

Puerto Rico Conference

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Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/puerto-rico

12-13

Tax Credit/SHCM

Milwaukee, WI
Audra Garrison, MAHMA
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www.mahma.com

12-14

CPO

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Paula Bresnei, PAHMA
(856) 786-9590
www.pennadelphama.org/events.html

19

NAHMA Summer Meeting NAA Conference

San Diego, CA
Brenda Mosher, NAHMA
(703) 683-8630, x112
www.nahma.org/meetings/MeetingInfo.html

25-27

CPO

Atlanta, GA
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/georgia

JULY

9

FHC

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10-12

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Building a Business, One Association at a Time

JO ANN MCKAY IS AN AHMA executive director who has never been in the property management business per se. “Technically, I’m in the association management business,” she said, although the associations she’s come to focus on have been entirely in the real estate realm.

Currently, Jo Ann McKay L.L.C. directs both the New Jersey and PennDel AHMAs and three chapters of the Institute of Real Estate Management (IREM).

AN ACCIDENTAL TOURIST

Like many in property management, McKay sort of fell into her role. “Thirty years ago my husband at the time was in construction and was hired as a superintendent for an apartment complex renovation,” she said. “We lived there for a couple of years and the property manager onsite, who was president of the local IREM chapter, suggested I get a computer because the chapter was growing, and they needed administrative help.”

“So I became the first paid chapter administrator, and that first president I ever worked for was a wonderful mentor. She helped me put together a lot of practices we still use today.” As a former teacher and working mother with two small children, McKay’s job as administrator of the Delaware Valley Chapter of Delaware IREM was a “baptism by fire,” she said.

McKay got her experience on the job, and because she started slowly, with one association, she was able to determine the best ways to operate. As her experience grew, McKay was approached by other IREM chapters in Northern and Southern New Jersey. Eventually she was approached for association-man-

agement assistance by JAHMA and then PennDel AHMA, and this progression enabled her to refine her systems and develop her business.

AN EXPERT JUGGLER

McKay works with all of the associations’ boards of directors to keep the individual organizations running smoothly. She and her staff (daughters Laura Spataro and Jenny Ferroni), and Gerri Aman put on conferences and trade shows, plan other educational opportunities, manage websites, send out newsletters, and perform other administrative and marketing functions for their client organizations.

There are fundamental differences, though, between the AHMAs and the IREM chapters. For example, the IREM chapters’ members are comprised of individuals (i.e., ARM, CPM), whereas the AHMA members are primarily management companies.

The three IREM chapters McKay manages have about 850 members total. JAHMA has about 92 member companies, plus 182 affiliate property members and nearly 60 associate (vendor) members. PennDel AHMA has 68 regular members, 196 affiliate members and 76 associate members.

McKay and her staff “really try to use the same systems for all of the organizations, even though they’re doing different things,” she said. For example, they do their accounting with Quickbooks and their database management with ACT.

The IREM chapters and the AHMAs are very distinct from one



another in terms of membership composition and board personality. “We have to be chameleons,” she said of herself and her staff.

“We need to be adaptable. One thing my company can provide is that all five associations work together and don’t see each other

as competition. They help each other. Because of that, we can maintain a schedule with minimum duplication.”

SATISFACTION IN THE END RESULT

“I really like the people I work with and for,” she said. “We just try to give good customer service. It is a challenge; we’re working with different boards sometimes every year. We help them achieve their goals the best way they can. I’d say 99 percent of the presidents and boards have been great partners. The three IREM chapters have achieved five-star status and are very well regarded. Their annual Tri-State Conference & Expo is one other chapters try to emulate.”

“JAHMA and PennDel AHMA do a lot of courses together, because it just makes sense,” she said. “Even JAHMA and IREM do things together, like speaking at one another’s conferences.”

McKay said she never expected her business to become what it is today. “I wasn’t overly driven about building a larger business,” she said. “My family has always been my first love, especially now that I have two grandchildren.” It was the people in the associations who caused her to form a strong attachment to her work. “The people in this industry really care about the people under their care—and we care about doing a great job for them.” **NN**

thelastword

Now Is the Time for Advocacy!



SEQUESTRATION! LESS THAN a year ago “sequestration” was a word rarely used by anyone. Today it is a frequently used word, said with frustration and concern.

NAHMA members are asking a variety of questions, such as “what does the future hold for affordable housing?” “how are we going to move past this hurdle?” “what’s next?” and so on.

The fundamental answer, in my opinion, is to make the time to actively contact your elected officials and their staff, both locally and nationally. Education is power. We at NAHMA are making great strides to have our voices, and the voices of the residents we serve, heard. We must continue to do so!

Even though the outlook might not be as bright as it once was, we are working to keep our concerns in front of those on the Hill. During the recent March NAHMA meeting I was impressed with the visits to the Senate I made with NAHMA member Rusty Fleming. My excitement came from having the opportunity to speak with staff from two senators’ offices

for more than 30 minutes each! The staff was informed and very interested in hearing the information we had to share. We offered to provide tours of our communities during their visits home, and staff absolutely agreed. Plans are in the works to showcase the communities!

The visits could not have gone any better! My past experiences were different; the staff was pleasant; however, they seemed uninterested in our cause.

NAHMA’s Grassroots Action Center is a wonderful resource. If you have not had the opportunity to review it, please take the time to do so immediately. You can access the resource online at www.nahma.org at the Grassroots Action Center tab. While on that tab, search NAHMA Maps to ensure your communities are represented. NAHMA Maps allows our members to provide their elected officials with visual and statistical information regarding affordable housing communities within their jurisdiction.

Be sure to scroll to the bottom of the page and print NAHMA’s Top Legislative Priorities, dated March 2013. This docu-

ment will assist you in familiarizing yourself with housing policy priorities. You do not have to know everything about every topic. The document speaks for itself and is perfect for staff and officials to read without being overwhelmed by our message.

Again, I cannot encourage you enough to contact your elected officials’ offices. Invite them to your communities to tour and meet the residents. Officials can hear and see first-hand how affordable housing has positively affected the lives of the residents and the surrounding neighborhood.

Please use the tools we have assembled to start your grassroots advocacy. Should you have any questions or need assistance, please feel free to reach out to NAHMA staff or me. I am making an “ALL HANDS ON DECK” call for action!

Together we will work to make a difference. At the very least, we are educating the policy makers, and that alone is worth all of our effort. **NN**

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