

NAHMA News

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

IN THIS ISSUE

- 3 Inside NAHMA
- 9 Washington Update
- 10 Tax Credit Compliance
- 13 Unified Student Occupancy Rules
- 17 Fall Meeting
- 22 FMR Fluctuations
- 28 Regulatory Wrap-Up
- 30 Education Calendar
- 31 Up Close & Personal



Supreme Court Takes Up Disparate Impact Case

The U.S. Supreme Court has accepted the *Texas Department of Housing and Community Affairs (TDHCA) v. Inclusive Communities Project* case, which seeks to determine if the state agency violated the Fair Housing Act (FHA) by disproportionately awarding developers Low Income Housing Tax Credits (LIHTC) in areas with high minority concentrations.

TDHCA is challenging a Fifth Circuit Court of Appeals ruling that ordered the department to spread tax credit subsidies and Section 8 housing in Dallas more evenly across neighborhoods of various racial compositions. The case (Docket No. 13-1371) presents the latest opportunity for the Supreme Court to weigh in on “disparate impact” as it relates to fair housing and assisted housing practices.

WHAT DISPARATE IMPACT IS

Disparate impact is the legal theory that prohibits practices that have an adverse impact on members of a protected class, even if there is no intentional discrimination. The disparate impact theory originated in reference to employment policies and practice and has been used in that arena. However, disparate impact is not specifically defined or cited within the FHA.

The Supreme Court took up two disparate impact cases under the FHA prior to accepting the Texas case on October 2, 2014. However, the two previous cases were settled prior to oral arguments. Texas officials have

HUD to Petition Supreme Court on PBCA Ruling

AT PRESS TIME, NAHMA LEARNED THAT HUD HAS SAID IT will file for a Writ of Certiorari, which is a petition for judicial review of a case, to the U.S. Supreme Court, asking for a ruling to overturn the decision of the U.S. Court of Appeals for the Federal Circuit in the suit challenging HUD's process for awarding new contracts to performance-based contractor administrators (PBCAs) in the Project-based Section 8 program.

The most recent action in the case had occurred on August 8, 2014, when the U.S. Court of Appeals for the Federal Circuit denied HUD's request that the full court rehear the case, *CMS Contract Management Services, Inc., et al. v. United States*. In March 2014, the court sided with the plaintiffs and ruled that HUD violated federal law in deeming administrative services contracts as “cooperative agreements” and avoiding a competitive contracting process.

NAHMA will continue to monitor the issue and will alert members when new developments arise.

continued on page 4

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Mark Jones

Chief Financial Officer,
A.J. Dwoskin & Associates, Inc.



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Our Elections Make a Difference, Too

AS I WRITE THIS, MID-TERM ELECTIONS are happening all around the country. And just as so many of those officials are up for election every two years, so, too, are NAHMA's officers. As established in our Bylaws, the president-elect becomes the president, which, in this case is Ken Pagano, former president of JAHMA, and the most recent president steps down. You can see former president Gianna Solari's farewell message on page 32.

We have other new officers and board members, as well as those who are re-elected and those who are new. The NAHMA Educational Foundation, for the first time in seven years, has a new board chairman. Outgoing Chair Wayne Fox has done an outstanding job of elevating the foundation so that it is a great force for good for our members' residents, and incoming Foundation Chair Melissa Fish-Crane will bring inspired leadership to the organization, building on her success as a gifted fundraiser and spokesperson for the scholarship program.

NAHMA's committees also have incoming and outgoing chairs and vice chairs, and we are all grateful for services rendered and services yet to come. It's an exciting time for everyone affiliated with NAHMA: having an infusion of new leaders, new ideas and new possibilities for progression and reinvention. You can find lists of all of these leaders on pages 19 to 20.

On behalf of myself and the staff, we'd like to thank these NAHMA leaders for their dedication to the tasks they signed on for, and their commitment to keeping NAHMA on course and in a leadership position throughout the industry. We would especially like to thank Gianna Solari for the last two years, in which she served as

NAHMA's board president. Gianna is an inspiration to all, has an outstanding work ethic, is generous way beyond the call of duty, and is a delight to be around.

Under her leadership we've done exciting things, among them:

- Created our first new course offering in 15 years, the just launched "Advanced Issues in HUD Occupancy" course, which you can read about on page 26;
- Instituted an Alternative Futures Task Force (AFTF), which debated multifamily housing policy ideas which could result in program efficiencies, cost savings, and greater assurance that assistance programs are directed to qualified households. The working group was led by Mark Morgan and Michael Johnson, who also have earned a special thank you for their tireless leadership in this effort. (You can read the *NAHMA Analysis* of the AFTF's work, "Program Efficiencies that Would Generate Cost Savings in Federal Multifamily Housing Programs" at NAHMA.org.);
- Gave our website a complete overhaul, making it more user-friendly, better organized, and appealing; and
- Updated our grassroots toolkit so that our members have more to work with than ever before in their efforts to educate elected officials, and those running for election, as well as federal, state and local agency staff, about the importance of affordable housing.

NAHMA's new president, Ken Pagano, has been in this industry for decades, and he brings a depth of knowledge and a wealth of ideas that will certainly drive us forward. Regardless of what the national elections bring, we know our elections will mean a bright future for NAHMA. **NN**
Kris Cook is Executive Director of NAHMA.

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signaled their intention to persevere through the Supreme Court process rather than settle. The court is expected to consider the case in the first half of 2015.

In agreeing to review the lower court's case, the Supreme Court accepted one of the two questions presented by the petitioners, according to law firm Buckley Sandler: "Are disparate-impact claims cognizable

FHA allows disparate impact claims. A Supreme Court ruling in favor of Texas could change the scope of the law across the country.

In its brief, Texas says "this case presents an opportunity for this Court finally to resolve whether disparate-impact claims are recognizable under the Fair Housing Act." Opponents of the disparate impact theory as it relates to fair housing argue that the FHA

Viewing this statistical discrepancy, the district court said Inclusive Communities had made a *prima facie* ("on its face") case of disparate impact and imposed injunctions designed to impart parity on TDHCA rates of approval on LIHTC applications. The Fifth Circuit Court upheld the district court finding.

In its appeal, the state argued that the lower court injunctions put

In its brief, Texas says "this case presents an opportunity for this Court finally to resolve whether disparate-impact claims are recognizable under the Fair Housing Act." Opponents of the disparate impact theory as it relates to fair housing argue that the FHA provides authority only for disparate treatment, not disparate impact.

under the [FHA]?" But it did not accept the second question: "If disparate-impact claims are cognizable under the [FHA], what are the standards and burdens of proof that should apply?" Texas had requested consideration of both questions.

HOW DISPARATE IMPACT HAS BEEN USED

Disparate impact theory has been a powerful tool for the Obama administration. The administration has used the disparate impact argument to gain settlements with banks accused of discriminatory lending, and additional cases are being pursued.

The administration has argued that liability for racial discrimination can exist even without evidence of racial bias or intent. In Texas's case, for example, if the state's policies result in more affordable housing units developed in minority neighborhoods than other neighborhoods, then disparate impact is created, according to the theory.

Though not explicit in the FHA, the disparate impact principle itself has been accepted over four decades by a series of federal judges who have ruled on housing cases. Eleven federal appeals courts have decided that the

provides authority only for disparate treatment, not disparate impact.

INCLUSIVE COMMUNITIES CASE

According to its overview statement, The Inclusive Communities Project, Inc., a nonprofit based in Dallas, engages in educational, research, and advocacy activities that promote and support the policies underlying the passage of the Fair Housing Act of 1968 and related civil rights laws. One of the nonprofit's activities is advocating for placement of Section 8 tenants in predominantly white suburban Dallas neighborhoods.

Inclusive Communities sued TDHCA in 2008, saying that the agency's tax credit allocation actions led to the disproportionate subsidy of affordable housing construction in minority neighborhoods. TDHCA administers the LIHTC program, awarding credits to developers who build qualified low-income housing projects.

Specifically, the district court found that TDHCA "approved tax credits for 49.7% of proposed non-elderly units in 0% to 9.9% Caucasian areas, but only approved 37.4% of proposed non-elderly units in 90% to 100% Caucasian areas."

TDHCA in a squeeze between avoiding racial discrimination and allocating credits on racial preference basis.

On a separate but related track that added another layer of complexity, HUD issued new rules interpreting the administration's viewpoint on disparate impact relative to the FHA. The final rule, "Implementation of the Fair Housing Act's Discriminatory Effects Standard," 24 CFR Part 100, was published in the February 15, 2013, *Federal Register*. On November 3, 2014 U.S. District Judge Richard J. Leon vacated this regulation, which is also known as HUD's Disparate Impact Rule. Judge Leon found that the Disparate Impact Rule exceeds HUD's statutory jurisdiction, authority, or limitations under the Fair Housing Act, and thereby violates the Administrative Procedures Act. The case, *American Insurance Association, et.al. v. United States Department of Housing and Urban Development et. al.* was decided in the U.S. District Court for the District of Columbia.

In its May 2014 petition to the Court, Texas said, "The federal district courts remain bound by the case law from their court of appeals, so it is unrealistic to expect HUD's regulation to bring about uniformity in the judi-

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SUPREME COURT TAKES UP DISPARATE IMPACT, *continued from page 4*

cial interpretation of the FHA. Uniformity can be attained only by a decision of this Court that either rejects disparate impact liability under the FHA, or endorses disparate impact liability while simultaneously announcing the standards and burdens of proof that courts must apply.”

In *Magner v. Gallagher*, a St. Paul minority contractor claimed that the city's targeted enforcement of the housing code against rental units reduced the availability of low-income rentals and created a disparate impact on African-Americans.

The U.S. Court of Appeals for the Eighth Circuit found for the plaintiff. The city appealed to the Supreme Court. St. Paul, in its petition, argued that the Fair Housing Act pertains only to intentionally discriminatory housing practices, not to policies that unnecessarily discriminate in practice.

On February 10, 2012, after an intervention by the federal Department of Justice, the city withdrew its petition, releasing a public statement that a potentially broad ruling by the Court could have “undercut important and necessary civil rights cases throughout the nation. The risk of such an unfortunate outcome is the primary reason the city has asked the Supreme Court to dismiss the petition.”

In the second case, *Twp. of Mount Holly v. Mt. Holly Gardens Citizens in Action*, a residents group challenged the New Jersey municipality's redevelopment program. The group had filed a lawsuit in opposition of the township's plan to raze 329 homes and redevelop the community with new single- and multifamily homes and commercial buildings. The neighborhood comprised predominantly black and Hispanic residents.

While the township defended its plan, the lawsuit claimed the township's redevelopment actions amounted to discrimination, even though such intent was not obvious. MHG said it could prove its claim through statistical evidence of

disparate impact on minorities.

The citizens group appealed the district court's summary judgment in favor of the township to the Third Circuit Court of Appeals. After the appeals court denied the township a rehearing, the township filed its petition with the Supreme Court, which docketed the case in June 2013. The parties settled before the scheduled December 4, 2013 oral arguments.

Prior to the settlement, NAHMA and six other leading industry organizations had submitted an amicus curiae brief to the Court. An amicus curiae (“friends of the court”) is the term for a brief filed with the court by someone who is not a party to the case.

The amicus brief laid out key arguments against a court-imposed broadening of the reach of the FHA—a possible outcome of a court ruling on disparate impact. The brief says in part, “Disparate impact liability is a judge-made rule that is not supported by the text of the FHA” and, as applied, “has created a series of intractable problems in practice that underscore how inappropriate it is in the context of combating housing discrimination.”

Though filed specifically for *Mt. Holly v. MHG Citizens in Action* case, the amicus brief's main points have relevance for the current *TDHCA v. Inclusive Communities* case. For example, the brief says that the disparate impact theory expands the FHA's scope and creates de facto protected classes that Congress never intended to create; that the FHA is straightforward and prohibits only intentional discrimination; and the Court should follow its own precedents and assure that the FHA is applied as Congress directed. In fact, NAHMA recently joined industry partners in submitting a new amicus brief for the TDHCA case.

To review the TDHCA's petition to the Supreme Court visit <http://www.scotusblog.com/case-files/cases/texas-department-of-housing-and-community-affairs-v-the-inclusive-communities-project-inc/>. **NN**



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The Perks of NAHMA Committee Membership

NAHMA IS THE VOICE IN WASHINGTON, D.C. for 19 regional, state and local affordable housing management associations (AHMAs). Our members are the best and the brightest in the industry. We are also a diverse organization with members who self-identify as Democrat, Republican, Independent, liberal, conservative and moderate. To advocate effectively, NAHMA has to find the common ground among all of these different points of view. Have you ever wondered how we do it?

Our committees are the key to NAHMA's public policy approval process. Each of NAHMA's seven advocacy-related committees has a specific mission:

- The Regulatory Affairs committee is responsible for developing and recommending NAHMA's position on HUD and other federal agency policies, regulations, and related matters to the Executive Council.
- The Federal Government Affairs Committee is charged with developing and recommending NAHMA's position on federal legislation affecting the management of affordable housing to the Executive Council. Once positions are approved by the Executive members, NAHMA's Board of Directors must concur in order for those positions to become official NAHMA policy positions.
- The Tax Credit Committee advises the Executive Council on how federal, state, or local mandates impact the housing credit program and the management thereof. It is the go-to NAHMA committee for issues affecting the Low Income Housing Tax Credit (Section 42) and bond-financed properties.
- The Fair Housing Committee monitors issues relating to fair housing and hous-

ing for persons with disabilities. The committee assesses the impact that these issues will have on the management of affordable housing and advises the Executive Council accordingly.

■ The Senior Housing committee advises the Executive Council on matters of particular interest to the management and provision of housing for the elderly.

■ The Rural Housing Committee advises the Executive Council on matters of particular interest to the management and provision of affordable housing in rural areas. This committee specializes in matters which affect properties subject to regulations of the U.S. Department of Agriculture-Rural Development.

■ The TRACS and Contract Administration committee works with NAHMA members and the industry to monitor and review performance standards of the Tenant Rental Assistance Certification System (TRACS). It also provides a forum to address performance-based contract administration issues which affect owners and managers of Project-based Section 8 properties. The work of this committee provides input to HUD and PBCAs from the practitioner perspective.

Whenever a federal agency releases a proposed rule, an important notice, a handbook change or other regulatory action, the first thing NAHMA does is alert our membership. Then we consult the appropriate policy committee leaders about the issue, and we gather feedback from members of that committee. This feedback is the basis for our regulatory comments.

When NAHMA has to develop a new policy position, we turn to our committee members first. Occasionally, an issue is complicated enough that temporary work-

ing groups or task forces, subject to one or more committees, are asked to take the lead in making recommendations. In general, once the committee recommends a new policy position, it is sent to the voting Executive Members for approval. Feedback is normally gathered by email.

If the Executive Members agree with the committee's recommendation, the policy position is sent to NAHMA's Board of Directors for concurrence. This process has served NAHMA especially well in finding members' consensus on new legislation introduced in Congress.

Nevertheless, there are times when NAHMA has to react quickly to a time-sensitive policy question. In those instances, NAHMA uses our expedited public policy approval procedures. We consult the appropriate committee, and then we seek concurrence on the committee's recommendation from the NAHMA Board.

So what is the take-away from this article? Joining one of NAHMA's seven advocacy-related committees gives you the opportunity to become a thought leader in a respected national organization. Policy committee membership gives you the chance weigh in on new regulatory and legislative issues at the onset of NAHMA's consideration. Of course, there is a catch: membership on these committees is limited to NAHMA's Executive Council members (i.e., Executive, Associate and Affiliate members).

If you've been thinking about joining NAHMA's Executive Council, do it! In fact, joining NAHMA's Executive Council would be a fantastic New Year's Resolution! **NN**

Michelle Kitchen is Director of Government Affairs for NAHMA.

IRS Completes Audit Technique Guide for IRC §42, Low-Income Housing Credit

THE NEW AUDIT TECHNIQUE guide (ATG) for IRC §42, Low-Income Housing Credit, is finished. The ATG was prepared to assist IRS examiners audit taxpayers, usually partnerships, owning IRC §42 projects. It is organized in the order an examiner might address issues during an examination. Completing the Examination of Income is also addressed.

IRC §42 ATG V. FORM 8823 GUIDE

The new ATG does not replace the Form 8823 Guide, which was written to help state housing agencies evaluate taxpayer compliance with IRC §42 requirements and report noncompliance to the IRS. The documents are complementary, however, and the Form 8823 Guide is referenced in the ATG rather than duplicating information.

INDUSTRY REVIEW

A draft of the guide was released for public comment last December. Comments were due by the end of March and 19 groups and individuals responded.

The comments covered a wide range of issues and included technical corrections, suggestions for additional topics, and one group even checked citations, which was very much appreciated.

INTERNAL REVIEW

The draft was also shared with interested revenue agents, field group managers, and program analysts. Their comments are also reflected in the final document.

REVISIONS

Here are some of the changes made to the January 2014 draft:

- Chapter 2, Precontact Analysis, now

includes Exhibit 2-1, IDR & Crosswalk to Issues. This explanation of documents to request from the taxpayer includes references to the chapters in the ATG related to the documents.

- Chapter 7, No Longer Participating in the IRC §42 Program, includes an expanded discussion of the state agencies' authority to determine that a building is no longer participating in the program.

- Chapter 8, Eligible Basis: Includable Costs:

- The definition of "Residential Rental Property" has been expanded to reference that a townhouse can be a "qualified low-income building."

- The discussion clarifies that a deferred developer fee may be documented by a note or by another document.

- Chapter 12, Applicable Fraction

- A new section titled "Units Occupied by On-Site Managers, Maintenance Personnel, and Security Guards" was added and includes audit techniques.

- A new section titled "Emergency Housing Relief" was added, as were references revenue procedures 2007-54 and 2014-49.

- "Deep Rent Skewing" was revised to correct a technical error. Number 1 on the list now explains that, for deep rent skewed units, the gross rent does not exceed 30% of the income limit applicable to the occupants of the unit.

- "Casualty Losses in Federally Declared Disaster Areas" includes reference to newly released Rev. Proc. 2014-49.

- Examples #4 and #5 were expanded to demonstrate the computation of the applicable fraction for the first year of the credit period under IRC §42(f)(2)(A) using the lesser of the Unit Fraction

or the Floor Space Fraction methods as required by IRC §42(c)(1)(B).

- "Project Defined" now includes Treas. Reg. §1.103-8(b)(4)(ii) as a reference, as well as IRC §42(g)(7).

- Chapter 17, Examples, was expanded to include a new section titled "Partial Disallowance of Credit During the 10-Year Credit Period."

- Appendix C, Treatment of Assets/Costs for IRC §42 Purposes, has also been expanded.

- Accounting Costs are separately addressed on page C-1;

- A new category titled "Acquiring Occupied Building: Tenant Relocation Costs" has been added;

- The section titled "Real Estate Taxes" has been expanded to include taxes incurred during the pre-production period; and

- IRC §266 is addressed in a new section titled "Carrying Charges Other Than Interest."

And all this just proves that it is perfectly fine to have a whole bunch of cooks in the kitchen, as long as just one cook stirs the pot! Thanks to all of you who contributed to making this ATG a better source document for information about IRC §42.

IRS WEB AND 508 COMPLIANCE

The finalized ATG will be available on IRS.gov as both a searchable html file and a 508 compliant Adobe .pdf document. **NN** This article first appeared in The LIHC Newsletter, No. 56, September 2014.

UPDATE: At the Fall Membership Conference, IRS officials informed NAHMA that the ATG was still under review, and the final, official version would be released in December 2014 or early 2015.

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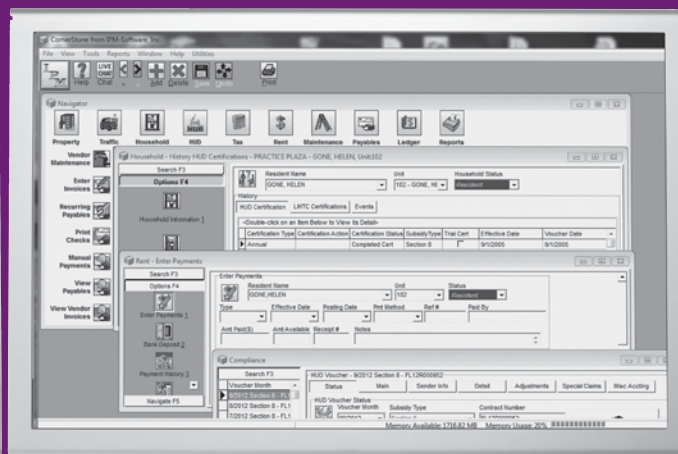
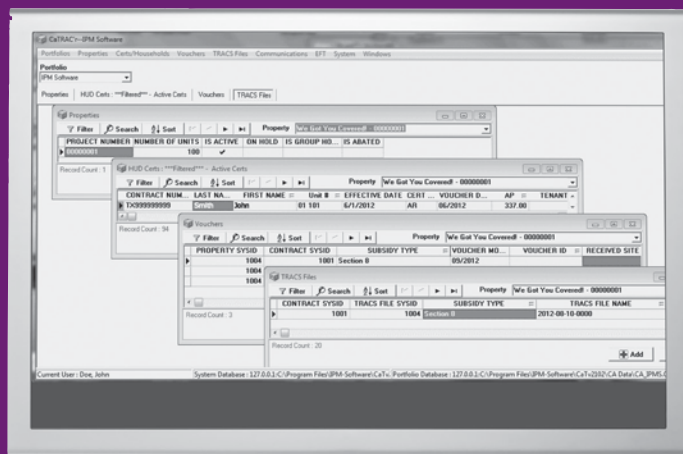
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NAHMA Makes Case for Unified Student Occupancy Rules

Standardizing a single rule on adult student occupancy for all affordable housing programs will increase compliance with federal regulations, save administrative time for owners/agents (O/As), and boost housing opportunities for eligible tenants, says a new *NAHMA* Analysis.

But it won't be easy.

Currently, no single policy exists for determining adult student eligibility for federally financed or subsidized multifamily housing, says the *NAHMA* Analysis, *A Business*

Case for a Single Occupancy Rule for All Affordable Housing Programs. To the contrary, the rules vary and are particularly vexing for O/As who manage HUD Section 8 and Low Income Housing Tax Credit (LIHTC) properties.

EXISTING DISCREPANCIES

On the one hand, Section 8 restrictions apply to both part-time and full-time students. Students may receive housing assistance if they are independent adults who are income-qualified and meet the program requirements. If not, both the students and their parents must be income-qualified to receive Section 8 assistance.

On the other hand, LIHTC restrictions prohibit full-time student households from occupying a low-income unit unless certain exceptions—such as a student who is receiving Temporary Assistance for Needy Families (TANF) or is enrolled in a Job Training Partnership Act (JTPA) or other eligible job training program—are satisfied.

NAHMA says the benefits of a unified rule would extend far beyond simplifying compliance for O/As and for agencies overseeing the rules. A

consistent rule “should permit independent adult residents to pursue higher education that will lead to better jobs with higher incomes,” according to the *NAHMA* Analysis. “By earning more income, residents would reduce their need for subsidies and maybe even transition to market-rate housing.”

For Section 8 assisted multifamily programs, HUD has a plain-language policy explanation: “For a student under

A consistent rule “should permit independent adult residents to pursue higher education that will lead to better jobs with higher incomes.”

the age of 24 who is not a veteran, is unmarried, does not have a dependent child and who is seeking Section 8 assistance, Section 327(a) of the Act sets up a two-part income eligibility test.

“Both parts of this test must be affirmatively met. That is, both the student and the student's parents (the parents individually or jointly) must be income eligible for the student to receive Section 8 assistance. If it is determined that the parents are not income eligible, the student is ineligible to receive Section 8 assistance.”

YET MORE RULES

Other HUD programs, including Rent Supplement, Rental Assistance Program (RAP), Section 221(d)(3) Below Market Interest Rate, Section 236, Section 202 Project Assistance Contract (PAC), Section 202 Project Rental Assistance Contract (PRAC) and Section 811 PRAC programs, impose separate student occupancy rules. Owners determine a student's eligibility for assistance at move-in, initial or annual recertification, and at the time of an interim recertification if a household member has become enrolled at an institution of higher education. HUD's 4350.3 Occupancy Handbook

details the eligibility criteria.

The HOME program has posted a change in the *Federal Register* that cross-references the Section 8 student occupancy rules and aligns with its income definitions for student eligibility. USDA's Rural Development (RD) rules for Section 515 Multifamily Housing and Section 514/516 Farm Labor Housing are similar to HUD's for Rent Supplement and RAP, says the *NAHMA*

Analysis. Distinctions are pointed out in RD's Asset Management Handbook.

LIHTC RISKS

Harmony between agencies and subsidy programs—especially between IRS's LIHTC program and HUD's Section 8—will become increasingly important as the LIHTC program is used more frequently to preserve older HUD and RD properties (including Section 515/8 communities).

Smoothing out the rule discrepancies, says NAHMA, would help these mixed-finance properties claim LIHTC support “without running afoul of IRS requirements or their state agencies' directives,” comply with HUD and RD rules, and “serve the broadest pool of otherwise-eligible applicants and residents.”

The conflict between Section 8 and LIHTC rules recently resurfaced in a draft chapter of HUD's 4350.1 Asset Management Handbook. Text in the draft revision acknowledged there are differences between HUD's student policies and the LIHTC program, but that O/As should “adhere to the Section 8 student rule policy” when a Housing

Assistance Payment (HAP) contract is in place.

Some NAHMA members have reported that their local HUD expressed similar instructions to deal with Section 8 and LIHTC student rule conflicts, even though the chapter is still in draft. With O/As put into this contradictory situation, NAHMA remains “concerned that violating the LIHTC student rule jeopardizes the very tax credits necessary to preserve and recapitalize HUD-assisted properties. NAHMA believes this example underscores the need for a legislative solution.”

NO LEGISLATIVE SOLUTION

Federal statutes created the conflicts between the Section 8 and LIHTC student occupancy policies, says the *NAHMA Analysis*, and “resolving their differences would require Congressional action rather than a simple regulatory fix.”

In terms of pending legislation, senators Al Franken (D-MN) and Rob Portman (R-OH) have introduced S.2723, The Housing for Homeless Students Act of 2014, which would exempt certain individuals from the LIHTC student occupancy rule and become eligible or retain eligibility, based on their recent experience with homelessness.

S.2723 advances the idea that “formerly homeless youth or veteran residents should not be displaced from affordable housing when they pursue educational opportunities that are necessary to improve their economic circumstances,” according to the *NAHMA Analysis*. However, the bill’s chances for passage are limited due to the tight Congressional calendar for the balance of the year.

Otherwise, Congress has no active bills intended to resolve the differences between the various agencies’ student occupancy rules.

NAHMA will continue to work with

our Tax Credit Committee and Federal Affairs Committee members to outline a single student rule for all multifamily housing programs. We will draw on our members’ expertise to refine the business case for a single student occupancy rule across federal multifamily housing programs. We will draw on our members’ expertise to refine the business case for a single student occupancy rule across federal multifamily housing programs. In addition, NAHMA will work toward building an industry-wide coalition on the issue and create a stronger, more unified message for lawmakers and other stakeholders.

NAHMA cautions that *A Business Case for a Single Occupancy Rule for All Affordable Housing Programs* is intended to stimulate a discussion of student occupancy policies and does not constitute legal or compliance advice. The *NAHMA Analysis* is available on the member portal at www.nahma.org. **NN**

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To order, visit www.nahma.org/store/index.html or call Rajni Agarwal at 703.683.8630, ext.15. Quantity discounts available.

NAHMA

HUD Clarifies AFHMP Review

In a memo dated Sept. 22, 2014, HUD's Office of Multifamily Housing provided additional clarification regarding the review and approval of a multifamily property owner's Affirmative Fair Housing Marketing Plan (AFHMP).

All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (24 CFR 200.615) must complete the Affirmative Fair Housing Marketing Plan (AFHMP) form. HUD's Office of Fair Housing and Equal Opportunity (FHEO) is required to review initial AFHMPs and existing AFHMPs that have been updated as a result of an

The first set of circumstances occurs when:

- At least five (5) years have elapsed since the last review; or
- The local jurisdiction's Consolidated Plan has been updated; or
- Significant demographic changes have occurred in the housing market area; and
- The owner's analysis determines that the current AFHMP fails to identify the population least likely to apply for housing, or that "the advertising, publicity or outreach are no longer appropriate and require modification or expansion."

The second set of circumstances occurs when:

All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units ... must complete the AFHMP form.

owner's internal review and determination that the plan requires modification.

HUD says owners should review an existing AFHMP when:

- At least five (5) years have elapsed since the last review; or
- The local jurisdiction's Consolidated Plan has been updated; or
- Significant demographic changes have occurred in the housing market area.

As part of the review, for example, owners should look at current outreach "targeting diverse areas where individuals least likely to apply for housing currently live." If the owner determines that AFHMP is satisfactory, no further documentation need be submitted to HUD, but owners should keep a record of the analysis. If the current AFHMP requires modification, the owner must submit the updated AFHMP for FHEO approval.

In summary, says HUD, owners are required to submit "updated AFHMPs to HUD for FHEO review and approval only under one of two sets of circumstances.

■ The owner adopts a residency preference for admission of persons who reside in a specified geographic area ("residency preference area"). An owner's residency preference must be approved by HUD as described in 24 CFR 5.655(c)(iii) subparts A and C. Residency preferences should only be approved when they further the goals of affirmative marketing.

■ The owner adopts an admissions preference for admission of persons who reside in a specified geographic area that hasn't previously been approved, in which case an update to the AFHMP must be approved.

The recent HUD memo and the predecessor memos have been distributed to NAHMA members, and the memos are also posted on NAHMA's HUD webpage. Those with lingering questions regarding AFHMPs are urged to contact the appropriate HUD field office or visit the Office of Fair Housing and Equal Opportunity's FHEO Library pages via the HUD portal at <http://portal.hud.gov> **NN**

HUD Publishes Assessment Tool for AFFH

HUD HAS RELEASED A DRAFT AFH (Assessment of Fair Housing) Assessment Tool for review and comment by assisted housing professionals and other stakeholders.

The department also:

- provided a preamble that summarizes the content of the AFH and includes specific questions for stakeholder and other public feedback; and
- posted on HUD's website PDFs of the data and maps proposed to help grantees complete the AFH.

Last year, HUD published a proposed Affirmatively Furthering Fair Housing (AFFH) regulation aimed at creating a framework of information and tools to support HUD recipients in meeting their AFFH obligations.

The proposed rule introduced an AFH, a document that HUD grantees would use to analyze barriers to fair housing choice and set goals to address them. AFH is proposed as a replacement for the current Analysis of Impediments to Fair Housing Choice.

HUD announced two opportunities for public comment on the AFH Assessment Tool, starting with a 60-day period upon the release of the tool. The second opportunity will be for 30 days later in the process. All the materials are available at www.huduser.org/portal/affht_pt.html. NAHMA encourages members and assisted housing managers to review the tool and provide feedback to NAHMA as well as through the government-wide public comment portal at Regulations.gov. **NN**

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NAHMA Fall Meeting Features HUD Secretary

NAHMA'S ANNUAL FALL MEETING, WHICH FOCUSES ON regulatory issues, was held October 26-28, 2014, in the place where it makes the most sense to talk about regulations: Washington, D.C. NAHMA members from around the country gathered to be with their peers—some of whom have known one another for 20 years or more, and some of whom were new to the experience. All got to experience the camaraderie, the sharing of technical experience and the consideration of issues important to the affordable-housing industry that can only be found at a NAHMA annual meeting.

HUD Secretary Julián Castro shared an inspiring message with meeting attendees, and senior-level HUD staffers were on hand to be part of a forum on issues such as the multifamily office's restructuring process, housing preservation, the funding of affordable housing, the REAC process, asset management and compliance issues.

HUD senior staff also participated in a discussion of key topics and trends in fair housing, including affirmative marketing, housing discrimination and other agency priorities.

NAHMA's tax credit committee led a session that featured IRS and



ABOVE: HUD Secretary Julián Castro shared his vision for working with NAHMA members to advance mutual goals related to providing quality affordable housing.

BELOW: NAHMA members attend the general session with the Secretary.



other industry experts which explored proposed legislation affecting the Low Income Housing Tax Credit program. Yet another panel discussion featured national business leaders who talked about encouraging the financial success of affordable housing residents, including through financial literacy programs.

The event's keynote speaker was David Wasserman, House Editor for *The Cook Political Report*, where he is responsible for handicapping and analyzing U.S. House races. Founded in 1984, The Cook Political Report provides analyses of Presidential, U.S. Senate, House and gubernatorial races.

All NAHMA committees met (for a description of their work, see the *Washington Update* on page 9), and \$56,000 was raised for the NAHMA Educational Foundation through the auctioning of posters from the most recent AHMA Drug-free Kid poster/calendar contest.

In all, the meeting was the place to be for both learning about and generating ideas around the production and management of affordable housing. NAHMA is grateful for all its board leaders—past, present and future—who keep advancing these conversations for the benefit of the entire industry.



ABOVE: Keynote speaker David Wasserman, of the Cook Political Report, gave a preview of mid-term election results.

BELOW: NAHMA Board members met with HUD Secretary Castro (front row, middle) to discuss the association's top issues and concerns, prior to his remarks to meeting attendees.



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NAHMA Welcomes Newly Elected Officers and Board Members

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President-Elect, Michael Johnson

Vice President, Tim Zaleski

Vice President, Michael Simmons

Secretary, Karen Newsome

Treasurer, Steve Henderson

Past President, Gianna Solari

Board member (new), Peter Lewis

Board members (re-elected),

Mark Morgan, Angie Waller

Many Thanks to Outgoing Officers and Board Members

Gianna Solari, President

Scott Reithel, Past President and Nominating Committee Chair

NAHMA Educational Foundation Welcomes Newly Elected Officers and Board Members

Chair, Melissa Fish-Crane

Vice Chair, Nancy Hogan

Board members (new), Megan

Davidson, Janine Lind, Gianna Solari,

Michael Johnson

Board members (re-elected), Phil

Carroll, Nancy Hogan, Randy Lenhoff

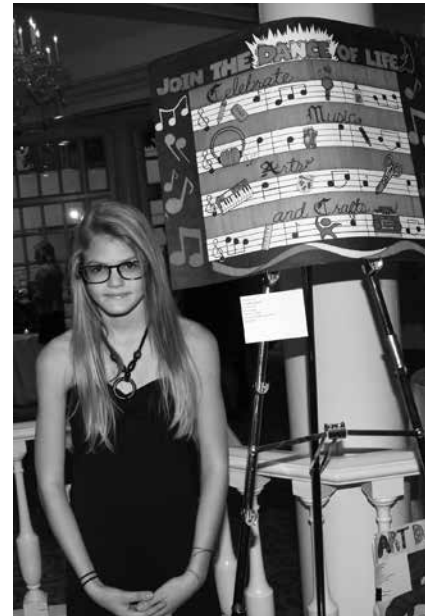
Foundation Thanks Outgoing Officers and Board Members

Wayne Fox, Chair

Jim McGrath, Vice Chair



Former NAHMA Educational Foundation Chair Wayne Fox (left) and Vice Chair Jim McGrath received plaques in appreciation of their many years of service.



2014 NAHMA poster contest grand-prize winner Jennifer Lauzon with her artwork.

Welcome, NAHMA Committee Chairs and Vice Chairs for 2015-2016

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Vice Chair: David Layfield

AHMA LIAISON COMMITTEE

Chair: Michael Johnson

Vice Chair: Tim Zaleski

BUDGET & FINANCE COMMITTEE

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Vice Chair: Karen Newsome

CERTIFICATION REVIEW BOARD

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Vice Chair: Julie Wall

EDUCATION & TRAINING COMMITTEE

Chair: Doreen Donovan

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FAIR HOUSING COMMITTEE

Chair: Gwen Volk

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(committee of the whole)

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Vice Chair: Scott Ployer

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Vice Chair: Scott Reithel

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Vice Chair: Ken Pagano

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(committee of the whole)

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RURAL HOUSING COMMITTEE

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Vice Chair: Chris Williamson

SENIOR HOUSING COMMITTEE

Chair: Jasmine Borrego

Vice Chair: Sonya Brown

TAX CREDIT COMMITTEE

Chair: Peter Lewis

Vice Chair: Jeff Kohler

TRACS AND CONTRACT

ADMINISTRATION COMMITTEE

Chair: Maria Oymaian

Vice Chair: Cindy Lamb

Thank You, NAHMA Committee Chairs and Vice Chairs for 2013-2014

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Vice Chair: Lori Russell

AHMA LIAISON COMMITTEE

Chair: Ken Pagano

Vice Chair: Karen Newsome

BUDGET & FINANCE COMMITTEE

Chair: Steve Henderson

Vice Chair: Tim Zaleski

CERTIFICATION REVIEW BOARD

Chair: Maria Oymaian

Vice Chair: Jan Peters

EDUCATION & TRAINING COMMITTEE

Chair: Debbie Piltch

Vice Chair: Doreen Donovan

FAIR HOUSING COMMITTEE

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(committee of the whole)

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Vice Chair: Nancy Evans

MEMBERSHIP AND MARKETING COMMITTEE

Chair: Julie Wall

Vice Chair: Chad Ketler

NOMINATING COMMITTEE

Chair: Scott Reithel

Vice Chair: Gianna Solari

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Vice Chair: Robert Gibson

RURAL HOUSING COMMITTEE

Chair: Phil Carroll

Vice Chair: Larry Anderson

SENIOR HOUSING COMMITTEE

Chair: Michael Simmons

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Chair: Rusty Fleming

Vice Chair: Greg Brandwene

TRACS AND CONTRACT

ADMINISTRATION COMMITTEE

Chair: Peter Lewis

Vice Chair: Debbie Ross-Weseloh



ABOVE: Members from the Mid-Atlantic AHMA region connect during the meeting.

BELOW: Spirited bidding during the NAHMA Educational Foundation Poster Auction Contest led to donations totaling some \$56,000.



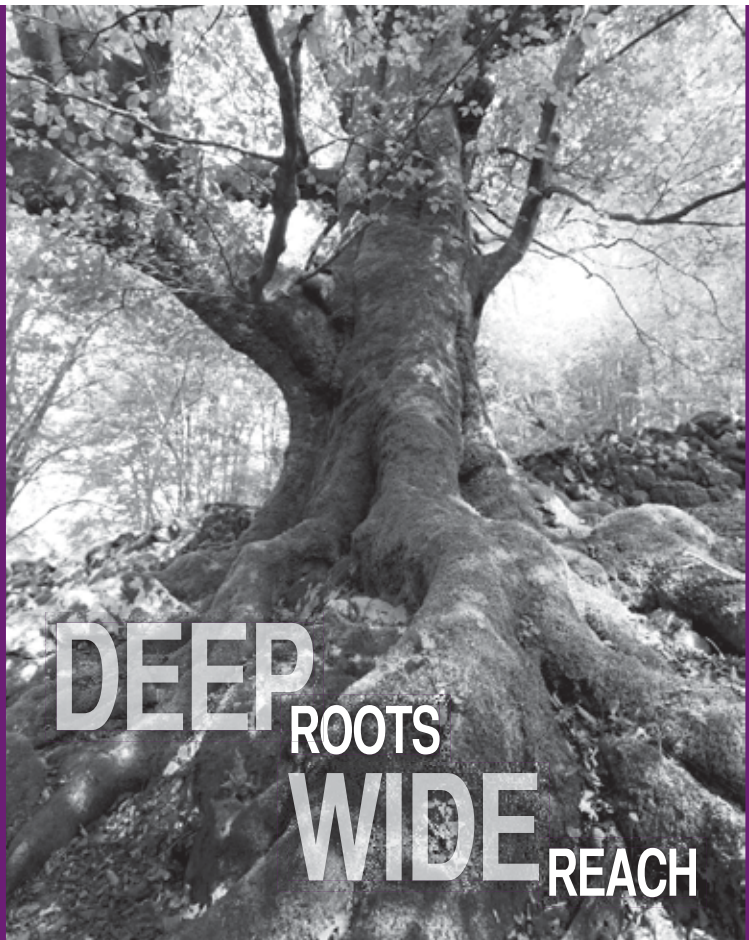
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Industry Raises Concerns on FMR Fluctuations

A group of industry organizations including NAHMA is recommending that HUD consider changing procedures to reduce the number of large year-to-year fluctuations in fair market rents (FMRs), according to comments filed in response to HUD's notice on FMRs for the Housing Choice Voucher Program for fiscal year 2015.

Smaller, multi-year changes in FMRs can be challenging enough to navigate at the owner/agent (O/A) level. But large one-year fluctuations can cause both immediate and long-term problems, since there is little margin for error in cost calculations for operating and maintaining assisted multifamily housing. The negative impacts range from financial instability for the property to the outright loss of affordable housing stock.

In responding to the HUD notice, the group also raised "serious concerns about the use of SAFMRs [Small Area Fair Market Rents] to manage the voucher program or other housing programs."

While the notice says the use of SAFMRs is limited, the group remains concerned that HUD's momentum may expand SAFMRs faster than evaluation evidence may support.

When the SAFMR demonstration was announced in 2010, HUD outlined two major goals:

- evaluating SAFMRs' effectiveness in improving tenants' housing choices in areas of opportunity "while also assessing the impact on tenants in areas with SAFMRs below the metropolitan-wide FMR," and
- evaluating the "administrative and budget impacts of converting and operating the tenant-based voucher program using SAFMRs."

The industry group commended HUD for providing additional analysis and detail in recent FMR notices, "which have greatly facilitated our ability to provide meaningful comments and for its decision to

solicit comments from stakeholders before implementing another round of substantive methodological changes."

FMR DECLINES CAUSE PROBLEMS

The industry acknowledged that changes in FMRs—sometimes drastic—will predictably occur in some areas. The notice of FMRs proposed for fiscal 2015 shows declines of more than five percent in 47 metropolitan FMR areas. In eight of these, the decline was more than 10 percent.

"Declines of this magnitude cause complications for property owners, tenants and PHAs," said the industry letter. Such complications can initiate a chain of events that may lead to rent reductions, financial instability, negative cash-flow, deferred maintenance, and, ultimately, the owner's departure from the voucher program and the loss of affordable rental housing.

HUD and the industry group agree that factors beyond rental market conditions may affect the calculation of FMRs. Statistical error and underlying economic trends play a role, as HUD noted in its FMR notice for fiscal 2014: "It is not clear how much of the variation is due to actual market movement and how much is variability in the American Community Survey (ACS) sample."

HUD also stated that large changes in the smaller metropolitan and nonmetropolitan counts "come from changes in the one-year ACS data" and that it would explore limiting the ACS data based on relevant statistical margins of error.

The industry group suggested that HUD develop a methodology that would "place additional restrictions on the use of the one-year ACS data" while mitigating the effect of unwanted additional volatility. The comment letter outlines statistical reliability test options

for refining the recent mover rent estimate factor and adding, as necessary, a multiple-criteria second test.

NEGATIVE EFFECT OF EXPANDING SAFMRs

Currently, HUD has limited the use of SAFMRs to public housing authorities in the Dallas (TX) HUD Metro FMR Area (HMFA), the Housing Authority of the County of Cook (IL), the City of Long Beach (CA) Housing Authority, the Chattanooga (TN) Housing Authority, the Town of Mamaroneck (NY) Housing Authority, and the Laredo (TX) Housing Authority.

The group expressed concern about potential negative effects of expanding the number of sites using SAFMRs, including the risks of reducing the resources for lower-income/lower-rent neighborhoods and increasing the resources for higher-income/higher-rent areas.

"A measure like SAFMRs that establishes significant differences in rent and subsidy limits within the same housing market fails to address the fundamental issue of FMRs that are too low to allow the voucher program to work as intended within a market area and is likely to have adverse consequences," noted the group's letter.

Acknowledging concerns about geographic concentration and limited availability of housing choices for voucher holders, the group says some of HUD's focus is misplaced. The letter noted that "the most important factor in limiting choices of voucher holders is the policy shift that occurred in the 1990s which lowered all FMRs from the median or 50th percentile of the rent distribution, first to the 45th and then to the 40th percentile."

The comment letter, dated September 12, 2014, is available on NAHMA's member Web portal at www.nahma.org. **NN**

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HUD Offers New Preservation Guidance

HUD recently announced efforts to keep owners of affordable multifamily properties informed of its Office of Recapitalization's efforts to promote preservation of affordability.

The new Affordable Housing Preservation Technical Guidance and Information applies to owners of properties HUD 202 Direct Loans, Section 236 Insured Loans, Rent Supplement (Rent Supp) Contracts, Rental Assistance Payment Contracts, Flexible Subsidy Contracts and Section 8 contracts.

HUD is encouraging owners to join its new Multifamily Housing Preservation Mailing List. This enables owners to receive emails with news and information on events and training about how to maintain a property's affordability. To sign up:

1. Log onto <https://www.hudexchange.info/maillinglist/>

2. Select the "Subscribe" button
3. Complete profile information, and
4. Under "I'd like to receive email updates about," select Multifamily Housing Preservation.

HUD is also urging owners of Section 236 and Section 202 properties to contact HUD to inquire about the affordability preservation process. Owners can email HUD with the property name, property address, mortgage maturity date, and primary contact person and contact information to either of the following email addresses:

■ For Section 202 financed properties, email Section202@hud.gov
■ For section 236 properties, email 236Preservation@hud.gov.

In addition, in late Fall 2014, the HUD Exchange site (www.hudexchange.info) will unveil Multifamily Housing Preservation webpages. This site will

consolidate and link existing web-based materials into easy to access and searchable formats. HUD will announce the webpage launch to members of the Multifamily Housing Preservation mailing list mentioned above.

Preservation is also being promoted through new educational materials that will be posted on the HUD Exchange. The materials will include:

■ Basic fact sheets on Section 236 and Section 202 preservation options
■ Technical information describing how to structure Section 236 and Section 202 preservation deals
■ Mark-to-Market fact sheet and technical guidance

HUD will also offer webinars highlighting useful and timely information about basic and advanced preservation topics. NAHMA will share more information as it becomes available. **NN**

RD Issues Notice on Fee Increases

USDA's Rural Development (RD) agency has released Procedure Notice PN 472, which includes its official announcement of fiscal year 2015 management fee increases, the first such increases approved since January 2011.

Attachment 3-F to RD's Handbook HB-2-3560 (Property Management) lists the fiscal 2015 management fees. Under the methodology used to calculate the increases, HUD's 2014 Operating Cost Adjustment Factor (OCAF) for each state was applied to RD's fiscal 2014 management fees. These new fees will be used for the FY 2015 budget cycle beginning January 1, 2015.

NAHMA has been persistent in advocating for updated, adequate management fees, emphasizing the realities of covering

increased costs for health insurance, employee's salaries, technological improvements, and similar expenses at rural multifamily properties. Earlier this year, NAHMA joined an industry coalition which proposed using the OCAF as a simple and effective methodology for increasing RD's management fees.

The coalition also urged RD to change its management fee methodology to allow some "add-ons" to the base fee. Some examples of possible add-ons include, but are not limited to, an add-on for managing a remote location or for managing a property with layered financing. RD has not made a decision about adopting the add-ons at this time.

NAHMA will continue to follow the developments related to RD's management fees in consultation with its Rural Housing Committee. **NN**

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NAHMA Launches “Advanced Issues” Course

On October 20, NAHMA announced the launch of its new “Advanced Issues in HUD Occupancy” course.

The course is a comprehensive program designed to cover advanced topics related to working with the HUD 4350.3 Occupancy handbook (version REV 1-Change 4), such as managing mixed-finance properties, managing corporate access to HUD secure systems, managing front-line staff in their occupancy compliance duties, and more.

Development of the NAHMA Advanced Issues in HUD Occupancy course was sponsored by Yardi, a leading provider of high-performance software solutions and services for the real estate industry.

Similar to its other courses, NAHMA will offer the new

Advanced Issues in HUD Occupancy course through local AHMAs beginning in early 2015.

The course is composed of classroom instruction and a two-hour exam. Individuals must pass the exam to obtain the NAHMA course certificate. All participants may earn continuing education credits for the number of hours of classroom instruction. In addition, each participant will receive a copy of the NAHMA Advanced Issues in HUD Occupancy manual.

Course attendees are advised to have a working knowledge of the HUD Handbook before registering for the advanced course.

Content in the course covers the following:

Senior Regulatory Management: Housing Covered Under Section 504,

including Regulations, Coordinators, Notification and Outreach, Confidentiality and Accessibility, New Construction, Non-Substantial Alterations, Common Areas, Providing Modifications, Determining Reasonable Accommodation, Review of Requests, Monitoring, and Self-Evaluation and Quality Control, Addendum B Issues Related to 504 Reporting, Affirmative Fair Housing Marketing Plan Requirements, Affirmative Fair Housing Marketing Plans (AFHMPs), Review During Management Operating Reviews (MORs), Limited English Proficiency (LEP) Development and Oversight, and the Violence Against Women Act (VAWA).

HUD Secure Systems: WASS, Types of Users, Obtaining/Maintaining Access to System, APPS, TRACS, Common MAT Errors, iMAX, SAVE,

Calendars: The Gift That Keeps on Giving

NAHMA'S ANNUAL AHMA DRUG-FREE Kid calendar is the gift that keeps on giving.

It's a gift to the children, young adults, seniors and special needs residents who live in NAHMA- and AHMA-member communities, because participating in the contest is both fun and creative. It also encourages the children involved to set goals, emulate good role models, and live a drug-free lifestyle.

An additional gift is the recognition given to participants at the AHMA level, and then at the NAHMA level.

Especially for the artists whose work makes it into the calendar, doing so continues to give. For the grand-prize winner, it's a prominent display of his or

her artwork on the cover of the calendar, plus a \$2,500 educational scholarship, plus a trip to Washington, D.C. For the national winners, a \$1,000 scholarship is provided, and Honorable Mentions receive a \$100 scholarship. (Seniors are honored by having a cash contribution made to their apartment community on their behalf; an artist must be under 18 to be the grand-prize winner.)

A BENEFIT FOR THE FOUNDATION

The foundation's scholarship program benefits when the original poster artwork is auctioned each year at a reception at NAHMA's fall meeting. Proceeds from the auction directly support the NAHMA Educational Foundation's annual educational scholarship

program, which has benefited more than 338 students over these last eight years with scholarships totaling over \$519,000.

The 2015 calendar has the theme, “Join the Dance of Life: Celebrate Music, Arts and Crafts,” and so the artwork is particularly joyful. There is a featured painting, drawing or multi-media work, as well as a photograph of its artist, for every month, plus a back cover of Honorable Mentions and a front cover of the grand-prize winner.

This year's grand-prize winner is Jennifer Lauzon, an eighth grader from Fall River, Mass. and was submitted by NEAHMA. Jennifer recently traveled to Washington, D.C. to NAHMA's fall meet-

EIV, LOCCS, FASS-MF, Reporting Requirements for Owners/Agents, and Privacy Issues.

Combined Funding: Allowable combinations, Low-Income Housing Tax Credit (LIHTC) Basics, HOME Basics, Rural Development Basics, Housing Choice Voucher Basics, Housing Conversion Actions, the Rental Assistance Demonstration (RAD) Program, Basics of Eligibility in Combined Funding Projects, Social Security Number Requirements, Citizenship requirements, Screening for Criminal Activity, Screening for Suitability, LIHTC Student Rule, Section 8 Student Rule, Calculating and Verifying Income, Income Limits, Rent Limits, and Utility Allowances.

For a calendar listing of AHMA trainings, visit <http://www.nahma.org/education/education-event-calendar/>. **NN**

NAHMA Educational Foundation

A Progressive Legacy of Financial Assistance

In its inaugural year of 2007, the NAHMA Educational Foundation Scholarship Program made 22 awards, each worth \$1,000.

In 2014, the scholarship program granted 67 awards, each worth \$2,500, for a total of \$169,500.

“This is an impressive pattern of growth in a reasonably short period of time,” said outgoing Foundation Chairman Wayne Fox, who presided over the growth of the scholarship program.

“This is a very meaningful financial commitment to residents of affordable housing,” he said, “and we remain steadfast in our commitment to move the program forward.”

Two of the foundation’s long-term objectives are to fund scholarships in every AHMA every year and to sustain its fundraising above \$150,000 each year going forward.

After several years of making awards of between \$500 and \$1,500, the foundation’s board decided to make a more definitive statement of support to worthy resident-scholars who were pursuing their educational dreams. In 2012, the board decided to raise the level of awards to \$2,500 per recipient in order to have a greater positive impact upon the recipients’ educations.

The board then embarked on a major fundraising initiative that continues today. These fundraising efforts have resulted in total scholarship awards of over \$135,000 in each of the last two years. During this past summer, the foundation board hired Brakeley Briscoe, Inc., a professional fundraising agency, to assist in its efforts to continue advancing the number of scholarship awards and the total amount of money awarded each year.

The 2015 scholarship application will be available online in early February 2015. Ideally, residents will be made aware of this wonderful opportunity so that they can complete an application before the June 1, 2015 deadline. Considering the high cost of an advanced education, every bit of financial assistance counts. **NN**

ing to receive her prize and help inspire contributions to the foundation.

Because of the important anti-drug message that is always conveyed through the calendars, purchasing them is a HUD- and RHS-allowable expense! You may also earn points in your state’s tax credit Qualified Application Process.

Order your NAHMA calendar today, for just \$5.50 each, via the order form contained in this issue of NAHMA News, by going to NAHMA’s website store at www.nahma.org/store, or by faxing NAHMA at 703-683-8634.

Present the Gift That Keeps on Giving to family, friends, colleagues and residents by buying your calendars today! **NN**

REGULATORY WRAP-UP

THE REAC COMPILATION BULLETIN FOR THE RECORD and Process Inspection Data (RAPID) 4.0 software applies to all physical inspections conducted using the HUD Uniform Physical Condition Standard (UPCS) protocol. It supersedes all previous editions and updates. It provides answers to some of the most common questions received from inspectors in the field and clarifies certain areas of the inspection protocol to further ensure that physical inspections are objective and conducted in accordance with the protocol. The bulletin is now available on the HUD Issues page at NAHMA.org.

HUD NEWS

HUD RECENTLY ISSUED A NOTICE WHICH SETS FORTH ITS POLICIES AND PROCEDURES FOR TRANSFERRING ALL OR A PORTION OF ANY REMAINING BUDGET AUTHORITY OF A PROJECT-BASED SECTION 8 HOUSING ASSISTANCE PAYMENTS (HAP) Contract to one or more contracts under where the existing HAP contract is terminated by mutual agreement. Under Section 8(bb), if the Section 8 contract is terminated or expires and is not renewed, HUD is required to transfer any remaining budget authority to another contract (either a new or an existing Section 8 HAP contract) to provide assistance to eligible families, including eligible families receiving project-based assis-

HUD PROPOSES REFORMS FOR SECTIONS 202 AND 811

HUD recently issued a notice which details statutory reforms for the Supportive Housing and Services for the Elderly (Section 202) and Persons With Disabilities (Section 811) programs. This proposed rule would implement amendments made by the Section 202 Supportive Housing for the Elderly Act of 2010 (Section 202 Act of 2010) and the Frank Melville Supportive Housing Investment Act of 2010 (Melville Act) to the authorizing statutes for 202/811. These two statutes were enacted on January 4, 2011, and made important reforms to the Section 202 and Section 811 programs, several of which have already been implemented through separate issuances.

This proposed rule would:

- Provide for grant assistance for applicants without sufficient capital to prepare a housing site in order to compete for funding under the Section 202 program or the Section 811 program;
- Revise the development cost limits for the Section 811 program;

- Amend the requirements for project rental assistance under the Section 811 program to allow for adjustments upon renewal and for increases in emergency situations;
- Allow Section 811 owners to request the conversion of supportive housing units for very low-income persons with disabilities;
- Offer voluntary services to persons with disabilities under the Section 811 program; and
- Allow Section 202 sponsors of projects to set aside a percentage of units for elderly individuals with functional limitations or other category of elderly persons, as defined in the Notice of Funding Availability (NOFA), in order to better align the Section 202 program with Federal, state, and local health care initiatives that support very low-income elderly individuals and provide for enhanced project rental assistance contracts.

NAHMA is reviewing this proposed rule in consultation with its Senior Housing Committee. To view this proposed rule, go to NAHMA.org.

tance at the time of contract termination. To view this Notice, go to the HUD portal at NAHMA.org.

WITH THE ROLLOUT OF THE NEW UNIFORM PHYSICAL CONDITION STANDARDS (UPCS) INSPECTION SOFTWARE (VERSION 4.0), the Real Estate Assessment Center (REAC) now has the capability to collect more detailed information about observations made during the inspection of properties. Therefore, the report has been modified to provide this detailed information. HUD issued a "cheat sheet" that provides a basic summary of the various sections of the modified report, listed in the order in which they appear. It includes illustrated examples of a complete report. To view this cheat sheet, go to the HUD portal at NAHMA.org.

HUD RECENTLY ISSUED A NOTICE WHICH DESIGNATES DIFFICULT DEVELOPMENT AREAS (DDAS) AND QUALIFIED CENSUS TRACTS (QCTS) for purposes of the Low-Income Housing Tax Credit (LIHTC). HUD makes new DDA designations annually and is making new designation of QCTS at this time to incorporate more recent income and poverty measures. These 2015 metropolitan DDA designations will be the last designated for entire metropolitan areas. Beginning with the 2016 DDA designations, metropolitan DDAs will use Small Area Fair Market Rents (FMRs), rather than metropolitan-area FMRs, for designating metropolitan DDAs. To view this Notice, go to the HUD portal at NAHMA.org. **NN**

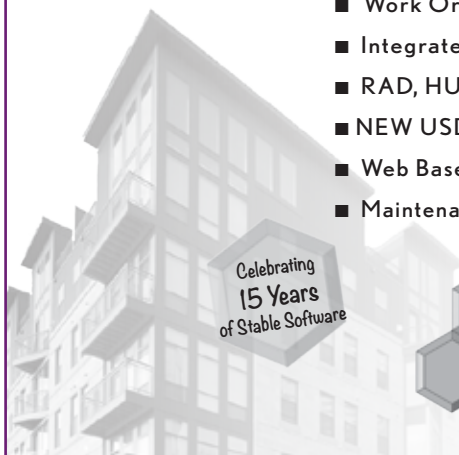
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EDUCATION CALENDAR

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.

JANUARY

5–6

Tax Credit Training and Online SHCM Exam

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

7–9

Certified Professional of Occupancy (CPO)

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

8

MOR Preperation (Conference Call Learning)

Webinar Training
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

13–14

FHC Certification

Santa Rosa, CA
ahma-nch.org

21

Preventative Maintenance Webinar Training

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

27–28

Basic Occupancy for HUD Housing Managers

Salem, OR
Maggie Meikle, OR AHMA
(503) 357-7140
www.oregonaffordablehousingmanagement.com/

FEBRUARY

10

CPO Exam

Real Page, TX
Kim O'Shea, Rocky AHMA
(303) 840-9803
www.rockyahma.org

18

Creating a Maintenance Plan for Multifamily Projects

Salem, OR
Maggie Meikle, OR AHMA
(503) 357-7140
www.oregonaffordablehousingmanagement.com/

19

Death of a Resident Webinar Training

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

24–25

Tax Credit Mini Conference

Salem, OR
Maggie Meikle, OR AHMA
(503) 357-7140
www.oregonaffordablehousingmanagement.com/

26

Developing & Delivering Effective Resident Services

Salem, OR
Maggie Meikle, OR AHMA
(503) 357-7140
www.oregonaffordablehousingmanagement.com/

MARCH

8–10

NAHMA Winter Meeting

Washington, DC
Brenda Moser, NAHMA
703-683-8630, ext 112
www.nahma.org

12

Tenant Selection Plans Conference Call

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

25

Occupancy

Warrendale, PA
Chuck Scalise, PAHMA
(412) 445-8357
www.pahma.org

26

Occupancy

Erie, PA
www.pahma.org

APRIL

21

Fair Housing

Mars, PA
Chuck Scalise, PAHMA
(412) 445-8357
www.pahma.org

22

Spring Conference for Maintenance (Includes Fair Housing)

Warrendale, PA
Chuck Scalise, PAHMA
(412) 445-8357
www.pahma.org

JUNE

23_24

NAHMA Summer Meeting

Held in conjunction with the NAA Education Conference and Trade Show
Las Vegas, NV
Brenda Moser, NAHMA
703-683-8630, ext 112
www.nahma.org

OCTOBER

25-27

NAHMA Fall Meeting

Washington, DC
Brenda Moser, NAHMA
703-683-8630, ext 112
www.nahma.org

A Supplier Committed to Affordable Housing

AS AN AFFILIATE MEMBER OF NAHMA, HDSupply Facilities Maintenance (HDS) and its national account manager, Douglas Zirkle, have a commitment to seeing that affordable housing providers receive high-quality goods and service. His division's dedication to affordable housing also extends to having a partnership that gives AHMA and NAHMA members a discount on their purchases.

"It's a bonus program," Zirkle explained. "When AHMA and NAHMA members buy from HDS they get an average 11 percent off the regular price, and then we return two percent of sales to the AHMA and one percent to NAHMA to support their missions of providing industry education and training." HDS keeps track of the total amount, and NAHMA and the AHMAs receive their bonuses quarterly. Last year collectively the AHMAs received about \$85,000 to support their missions, Zirkle said.

HDS also sponsors NAHMA's annual Communities of Quality® Awards luncheon, because "we really think these companies and individuals deserve this kind of recognition for their commitment to their properties," he said.

NO LONGER ORANGE

At one time, the HD in HDSupply Facilities Maintenance did stand for Home Depot, which had bought the company formerly known as Maintenance Warehouse, said Zirkle. But in 2007 Home Depot sold this part of the business to three investment funds, "and now we're on our own." HDSupply never did have stores; customers bought from a catalog that is now, of course, online.

HDSupply Facilities Maintenance is

now a publicly traded company, with divisions that include hospitality, healthcare, federal government, commercial and multifamily.

Multifamily is where Zirkle's responsibilities and passions lie.



COMMITTED TO AFFORDABLE

Zirkle started his sales career with a large international chemical company, where he stayed for four years, but he found that corporate culture did not suit him. He started looking around "and got real lucky when I met somebody from HDSupply," he said. That was 14 years ago. He started going to

said. "I know a lot of people in the industry, and they're very nice and easy to work with, particularly the people in affordable housing. Their personalities match mine. I'm in this to help people, and that's true of the members of NAHMA as well." Multifamily

is also where Zirkle sees the future of his company going. "It's the largest part of the company and the one that grows the most year to year," he said.

TEAM AT WORK, TEAM AT HOME

Zirkle has been married for 13 years and has his own little football team at home—three boys ages 12, 11 and

"When AHMA and NAHMA members buy from HDS they get an average 11 percent off the regular price, and then we return two percent of sales to the AHMA and one percent to NAHMA to support their missions of providing industry education and training."

NAHMA meetings seven or eight years ago, when he was a field rep.

"HDS has been great for me," Zirkle said. He's been promoted twice, to regional account manager and then to national account manager for the multifamily division. The corporate office is in San Diego, but Zirkle works out of his home in New Market, Maryland, since most of his corporate clients are based in the eastern region. Some of his corporate customers have properties all over the country, and even those whose primary business is market-rate multifamily housing usually have some tax credit properties as well.

"Multifamily's home for me," Zirkle

seven. "We spend entire days at the football field," he said. "We're busy every weekend, and we all love it."

He also enjoys skiing and running. "I like to try and run wherever I travel," he said. "In D.C. I run along the river parks and monuments. In Virginia and California, I run on the beaches. I take my running shoes everywhere I go. It's a great way to see every place you're visiting." He lives in a community where there are several lakes, which bring many opportunities for water sports and fishing.

"In the summer time, it's nice to spend time out on the water with the family. We all enjoy sunny days around here." **NN**

thelastword

Gratitude for Opportunities as President



AS I FINISHED OUT THE LAST days of my term as NAHMA's president, I reflected on the past two years and am grateful! I have thoroughly enjoyed my term and am nearly as excited for our new president, Ken Pagano, to begin his term.

Over the past two years I have had many opportunities and adventures, and with each I learned something new, made new friends and gathered memories I will cherish always. Granted, we as an industry have faced many obstacles in recent years; however, I believe we have come through stronger—which will benefit us as we move forward.

During my presidency, my goal was to promote and teach the importance of grassroots advocacy. I am hopeful the message was heard and will help influence decision makers in ways that support an increase in affordable housing and more efficiency in the ways our work is regulated. NAHMA's webpage is an amazing resource for advocacy! Remember, you and you alone can make a difference!

I am grateful to the members who volunteer their time and expertise to assist in

leading NAHMA, from our newest committee members, to the committee chairs and vice chairs to the past presidents of the board and members of the board of directors. Without the support and passion of our members, we would not be the strong, thriving organization we are. NAHMA is the leading voice of affordable housing and our opinions are much valued in the Administration, on the Hill, at HUD, at Treasury and at the IRS, among others. We are partners with many throughout the industry in our efforts to provide the highest quality affordable housing.

Thank you to all the AHMAs for their hospitality and for maintaining their strong relationship to NAHMA. Thank you Kris Cook, NAHMA's executive director, and all of the NAHMA staff for their hard work, support and dedication.

In addition, I would like to recognize Johrita, Bruce and the team members at Solari Enterprises, Inc., for their support during my presidency. In the true meaning of team, their support allowed me to focus on my role at NAHMA.

The continued support of each

NAHMA member is greatly appreciated by all of us who take on some aspect of the organization's leadership. Take a moment to appreciate your organization as well and how the work you do directly affects countless households. You all should be very proud!

It was been my pleasure representing NAHMA. Best wishes to incoming President Ken Pagano, and the board and committee Leaders, for their continued success!

All I ask in return for my humble service is that you mark your calendars for NAHMA's Winter Meeting and Legislative Issues Forum, held in Washington, D.C., March 8-10, 2015. I want to get to know even more of you! Visit NAHMA's webpage at www.nahma.org for more information on meetings and current happenings in affordable housing.

And, again, thank you for having provided me this opportunity to serve. **NN**

Gianna Solari, SHCM, NAHP-e, FHC, is Vice President/COO of Solari Enterprises, Inc. of Orange, CA and is President of NAHMA.