NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

NAHMANews

November December 2009

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

IN THIS ISSUE

HUD Announces Waiver of Reporting Requirements

At press time, NAHMA learned that based on its advocacy efforts and those of industry colleagues, the Department of Housing and Urban Development (HUD) has been able to secure a waiver of the American Recovery and Reinvestment Act (ARRA) reporting requirements that applied to project-based Section 8 Housing Assistance Payments (HAPs) funded through the act.

The waiver was granted by the federal Office of Management and Budget (OMB), which stated: “The Project-based Rental Assistance (PBRA) program provides rental assistance to low-income tenants in nearly 1.3 million housing units. Residents generally pay 30 percent of their income toward rent and HUD pays the balance of rent and utilities to private owners/landlords of multifamily rental properties. The PBRA program is tantamount to individual benefit programs, which provide assistance to individuals to meet or help meet particular needs, such as paying for medical care, food, or college tuition. In the PBRA program, the benefit provided is quality, safe, and affordable housing and the beneficiaries are low-income families. Although Federal payments are made directly to owners/landlords, those payments are not intended for the benefit of the owners/landlords. They are merely the mechanism for delivering the benefit to low-income families. As with other individual benefit programs, families must meet certain eligibility criteria to qualify for assistance. For example, they must be at or below 80 percent of area median income.

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QUERIES: Letters to the Editor and other queries should be sent to NAHMA Executive Director Kris Cook at kris.cook@NAHMA.org or to the address above.

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BY KRIS COOK, CAE

Looking Ahead, Bolstered by Hope

WHAT AN EVENTFUL YEAR! It began with the nation's first African-American president, Barack Obama, being sworn in on January 20 in front of the largest crowd ever to converge on the National Mall. The excitement surrounding this event has been eclipsed somewhat by the realities of legislative and political maneuvering and tempered by a financial crisis that continues to reverberate.

Despite these challenges, we remain excited about the prospects that seem to be opening up with the new Administration. We see it in our dealings with HUD, for instance, which seems to value affordable multifamily housing in a way we haven't seen in many years.

MAKING HEADWAY ON THE HILL

NAHMA's legislative priorities are determined by what our members think is important. Toward that end, some of our top issues include:

- Ensuring full funding and timely payment of project-based Section 8 housing assistance payment (HAP) contracts;
- Stabilizing the tax credit marketplace;
- Preserving the affordable multifamily portfolio;
- Increasing funding for key affordable housing programs;
- Getting relief from escalating utility costs; and
- Obtaining clarity and consistency in REAC inspections, protocol and scoring. (For a full listing and explanations of NAHMA's legislative priorities, go to www.nahma.org and look under Legislation.)

We also maintain strategic alliances with other industry groups, thereby strengthening the voice of the affordable housing industry. One example of this is that, for the first time, we will hold our annual summer meeting in conjunction with the 2010 National Apartment Association (NAA) Education Conference & Exposition on June 23-26 in New Orleans.

EXPANDING STANDARDS OF EXCELLENCE

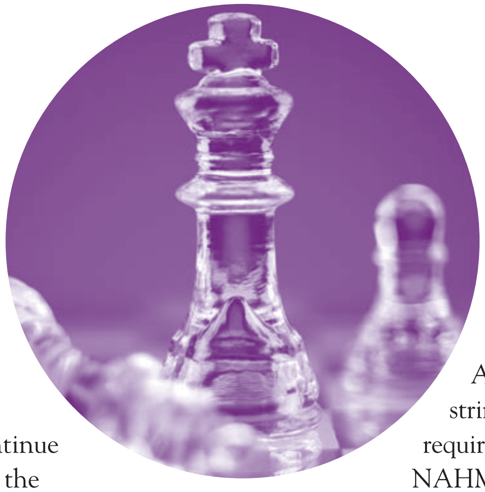
We also continue to promote professional standards via our growing education and certification programs. These include:

- National Affordable Housing Professional (NAHP)
- National Affordable Housing Professional–Executive Level (NAHP-e)
- Certified Professional of Occupancy (CPO)
- Fair Housing Compliance (FHC)
- Specialist in Housing Credit Management (SHCM)
- NAHMA Maintenance Professional Credentials
- Credential for Green Property Management—our newest credential, offered in partnership with the National Apartment Association Education Institute.

Also, we strive to keep our content current and relevant to members' needs. An example of this is the recent publication, through The Compass Group, of a revised *Fair Housing: A Guidebook for Owners and Managers of Apartments*. This updated guide reflects current case law, includes new material on emerging issues and is available on CD, providing greater accessibility to the material.

Finally, we'll be celebrating NAHMA's 20th anniversary in 2010 and hope you'll join with us in acknowledging this important milestone. **NN**

Kris Cook is Executive Director of NAHMA.



Because the PBRA program is tantamount to an individual benefits program, and because 31 U.S.C. 7501(a) excludes from the term 'Federal financial assistance' amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director, the program is properly excluded from 1512 reporting."

In mid-September, NAHMA and affordable housing industry members learned that ARRA's Section 1512 reporting requirements applied to project-based Section 8 HAPs funded by a $2 billion allocation in the act. Since then, NAHMA worked to secure an exemption from the reporting requirements for HAP payments funded by ARRA, or at a minimum, an extension of the deadline for reporting, since property owners who received ARRA funding learned of their reporting obligations only a few weeks prior to the October 10, 2009 filing deadline.

ARRA, also known as the stimulus package, was passed in February 2009. Section 1512 requires quarterly reporting by funding recipients, and in particular focuses on the estimated number of jobs created or saved by the ARRA funding. Included in the many funding provisions of the act was $2 billion for project-based Section 8.

In September, HUD informed owners of 5,700 properties, including a number of NAHMA members, that they were required to comply with ARRA's Section 1512 reporting requirements because the agency used a portion of the $2 billion to fund their HAP contract.

To help members navigate the confusing filing process, NAHMA hosted two conference calls with senior HUD and other technical assistance staff. Unfortunately, many owners who made a good faith effort to complete the filing within the October deadline found that they were unable to do so due to technical or other difficulties.

Owners who tried but were not successful were at first being asked by HUD to continue the process and enter the report during the next quarterly reporting phase beginning on January 1, 2010. This was superseded when the waiver was announced in November.

BACKGROUND FROM NAHMA'S PERSPECTIVE

As NAHMA Executive Director Kris Cook said in her introduction to the conference calls, what led to the onerous reporting requirements actually began in the summer of 2007—the last fiscal quarter of the federal budget year—when a substantial part of the project-based Section 8 portfolio did not receive their housing assistance payments (HAPs) for two to four months due to a shortfall in the project-based Section 8 budget.

> There was **one bill** moving in Congress where the extra funding needed to prevent a Section 8 **SHORTFALL** could be secured, and that was the **ARRA**.

HAP contracts were short-funded throughout Fiscal Year 2008.

By early 2009, as the fiscal year 2009 budget was being finalized by Congress, industry groups such as NAHMA quickly realized that there was again not enough money requested for the project-based Section 8 budget. This would again lead to a budget shortfall—and late or no HAP payments unless extra emergency, supplemental funding was found outside of the regular appropriations process on Capitol Hill.

There was one bill moving in Congress where the extra funding needed to prevent a Section 8 shortfall could be secured, and that was the ARRA. However, the $2 billion project-based Section 8 funds in the ARRA came with strings—or reporting requirements—attached. NAHMA worked hard advocating for a waiver of these reporting requirements, and learned from HUD staff that they too had requested a waiver of the requirements. The decision did not rest with HUD, however, but with the federal Office of Management & Budget (OMB), which until early November had denied all requests.

NAHMA PRESSES THE CASE

In early October, NAHMA sent letters to Congressional appropriators, the director of OMB as well as to the Office of General Counsel of the Recovery Accountability and Transparency Board, stating that it believes "the legislative intent and valid policy considerations justify exempting affordable housing providers who received ARRA's project-based Section 8 funding from the Act's Section 1512 reporting requirements."

The letters pointed out that the appropriations for project-based Section 8 in ARRA were used to meet HUD's contractual obligations to provide a full 12-month subsidy for its 12-month housing assistance payment (HAP) contracts with multifamily property owners. "This funding was absolutely necessary not only to meet HUD's contractual payment obligations in FY 2009, but also to restore owners' confidence in the project-based Section 8 program, and to allow sound operation of the affected properties," the letters stated.

NAHMA pointed out that owners did not apply to receive these Section 8 funds. These funds were never competitively awarded through an application process.

For additional background information, go to www.nahma.org. **NN**

BY MICHELLE KITCHEN

2009: A Year in Review

IT'S BEEN A BUSY YEAR ON THE legislative and regulatory fronts.

Congress's first order of business was to pass major economic stimulus legislation. This bill, the American Recovery and Reinvestment Act (ARRA), moved from its introduction in the House to the President's desk in about three weeks. Likewise, the new Administration made sweeping changes in personnel and policy priorities at HUD.

It's been a challenge for NAHMA staff to keep up with all of this action but, considering the progress we've made in achieving some major policy goals, it's been well worth the effort.

SUCCESS FOR FUNDING HAPS

NAHMA's top policy priority has been ensuring that project-based Section 8 HAP contracts are fully funded at the time of renewal and that subsidy payments are received on time. ARRA directed $2 billion specifically to help fund the 12-month terms of project-based Section 8 contracts.

Likewise, the FY 09 Omnibus Appropriations Act provided $6.87 billion for contract renewals, plus $400 million in advanced appropriations for FY 2010. HUD's 2010 budget proposed a $1 billion increase for project-based Section 8. Furthermore, HUD's budget summary stated, "Annual renewal funding should be predictable, timely, and sufficient to fund rental contracts for a full 12 months, a sharp contrast to the short funding of contracts that occurred in recent years."

The advanced appropriations, as well as authority provided in the FY 10 continuing resolution (CR) which allows HUD to obligate funding beyond the period covered by the CR, have helped mitigate HAP payment delays.

At press time, Congress had not approved the final 2010 Transportation-HUD Appropriations Act. However, NAHMA remains confident that project-based Section 8 contract renewals will be fully funded.

GAP FINANCING FOR LIHTCs

A second major priority has been stabilizing and restarting the low-income housing tax credit (LIHTC) marketplace. Congress answered NAHMA's call for gap financing to cover the shortfalls caused by the lack of equity investment in LIHTC properties.

ARRA created two new options state housing agencies could use to help shovel-ready projects move forward. State agencies were permitted to exchange a portion of their 2009 LIHTC allocations for cash grants from the Treasury Department. Likewise, states could use a $2.25 billion gap financing program through HOME to restart low-income housing construction stalled during the credit crisis. NAHMA believes these measures were necessary to provide immediate stabilization to the program and move deals in the pipeline forward.

Nevertheless, additional legislation is necessary to attract investors back to the LIHTC market and to expand the base of investors. NAHMA is a member of the A.C.T.I.O.N. (A Call To Invest in Our Neighborhoods) coalition, which has called on Congress to:

- Increase the housing tax credit carryback for up to five years;
- Extend Treasury's housing credit cash-exchange program (Section 1602) for an additional year; and
- Expand the LIHTC potential investor base to certain LLCs, Subchapter S corporations and closely held corporations.

LEP TRANSLATIONS PROGRESS

We also made excellent progress on the issue of limited English proficiency (LEP). Thanks to the appropriations designated for LEP translations and services, HUD has provided numerous translated forms to support its programs. Some 13 documents have been translated into 13 foreign languages to support the multifamily programs administered by the Office of Housing.

BUILDING RELATIONSHIPS WITH NEW STAFF

Although Congress began the year with a flurry of activity, key Administration positions were filled at a slower pace. It generally takes at least six months for new presidents to staff the agencies. Prospective officials must go through intense background checks. When Senate confirmation is necessary, nominations can move quickly or they can be indefinitely delayed. Most of the key political appointments responsible for affordable housing were filled by summertime.

NAHMA staff spent much of this year building relationships with new Administration officials at HUD and at the Rural Housing Service (RHS). Numerous challenges lie ahead for these individuals as policies and priorities are being re-evaluated throughout the agencies; however, NAHMA is encouraged that the political appointees who are responsible for housing programs bring real-world, practitioners' experience to their departments. **NN**

Michelle Kitchen is Director, Government Affairs, for NAHMA.

BY FREDERICK COPEMAN

Executive Summary of LIHTC Investment Report

IN SEPTEMBER 2009, ENTERPRISE Community Partners, Inc. and Local Initiatives Support Corporation engaged Ernst & Young LLP to study the current market environment for low-income housing tax credit ('housing credit') investments, investor motivations and investor responses to potential legislative enhancements to rules that govern these transactions. This resulted in a report entitled *Low-Income Housing Tax Credit Investment*.

(The full text of the report can be found on NAHMA's Tax Credit webpage at: http://www.nahma.org/member/Tax%20Credit/Legislative%20Study_FINAL%20092509.pdf.)

As part of this engagement, Ernst & Young surveyed current, former and potential institutional investors, as well as syndicators and brokers active in the housing credit industry. The report was jointly undertaken by Ernst & Young's Tax Credit Investment Advisory Services group and its Quantitative Economics and Statistics group.

The report's findings are summarized below:

- The composition of the housing tax credit equity market has evolved significantly since the earliest years of the program, from an individual investor base to institutional investors drawn from a range of industries, and finally to the current investor base dominated by very large financial services corporations. As the capital market for housing credits began to mature and become increasingly efficient with increased demand from the late 1990s onward, housing credit prices had reached historic highs, and yields reached corresponding lows, by 2006. Unfortunately, this narrowed investor base, heavily dependent on the GSEs and major banks, left the market for housing tax credits highly vulnerable to the credit crunch observed among financial services companies beginning in 2008. These companies had a precipitous decline in their profitability, one consequence of which was a dramatic decrease in their need for tax shelters including housing credits.
- In 2008, housing credit investment levels fell dramatically from 2007 levels due both to the broader economic conditions and dislocation in the financial services investor base. Since affordable rental housing development depends on the reliability of capital raised from the syndication of housing credits, the data we have compiled shows that a nationwide inventory of slowed or stalled development has begun to accumulate.
- Based on the data we received, we have no reason to believe that this equity gap can be quickly closed absent legislation designed to stimulate new investment activity. The decline in investment activity is expected to continue absent stimulus for the equity market. Survey respondents predicted a total 2009 equity volume of $4.5 billion absent additional housing credit stimulus legislation, representing a 22.4% decrease from respondents' 2008 levels, which itself represents a 14.8% decrease from 2007. Our estimates of the overall market size based on data compiled from various sources reflect even more significant declines of 34.5% from 2007 to 2008, compared to the 22.4% reduction reported by the survey respondents. The variance between the industry's investment volume estimate and survey responses is partially due to the fact that active investors are more likely to respond compared to investors that have permanently exited the market.
- As a sub-set of the total market, tax-exempt bond financed investments have been more adversely affected than those financed with allocated credits, as a majority of the investment decline among survey respondents from 2007 to 2008 appears to have been associated with tax-exempt bond transactions. Survey respondents indicated a 50.7% decline (from $1.575 billion to $776 million) in tax-exempt bond financed investments from 2007 to 2008, which is much more dramatic than the decline in allocated credit investments during the same period.

...Respondents indicated that having the ability to carryback their housing credits for up to five years would be their preferred alternative.

- Among the proposed legislative changes they were asked to evaluate, respondents indicated that having the ability to carryback their housing credits for up to five years (instead of one, as provided under present law) would be their preferred alternative:
  - It was the alternative most likely to increase either the likelihood of their becoming investors, or for current investors, the likelihood that they might increase their current level of investment.
  - When we aggregated the replies received concerning the likely impact of the proposed legislation on their own investments, respondents indicated they would invest $5 billion more than they currently plan through 2011 if the

five-year carry-back proposal is enacted. Specifically, they would invest 14% more ($5.1 billion vs. $4.4 billion) in 2009, 49% more in 2010 ($6.6 billion vs. $4.4 billion) and 47% more ($7.1 billion vs. $4.8 billion) in 2011. In addition, since not all market participants responded to the survey, the total market investment amount would be higher.

- Respondents also indicated a preference that their housing credit investments be comprised either entirely of allocated credits, or that, if there were a blend of the two, no more than 25% of their investment go to 4% credit projects financed with tax-exempt bonds. Respondents consistently cite the negative impact of higher loss levels on their financial statements as the basis for their preference.

While current and prospective investors indicated that higher yields were the first factor they considered, it was obviously not the only one driving their investment decisions. Since market yields have more than doubled since hitting historic lows in 2006 (10% versus 4.25%), and equity demand remains anemic, it is clear that these other factors are important, and may even be more important than yield to some. Among these issues, respondents indicated that:

- Corporations are reluctant to commit to investing in a program that requires a reliable ten years of consistently positive tax liability. This is consistent with their stated preference for the five-year carryback alternative noted above.
- Investors also cite the absence of a ready secondary market as a negative, since a dramatic change in their financial condition might dictate the sale of their housing credit investments. Giving investors the ability to transfer their interests more easily, in a fashion similar to that available to investors in other tax credit transactions, would presumably address that issue. NN

Frederick Copeman is National Director, Tax Credit Investment Advisory Services, Ernst & Young, and author of this report. Executive Summary reprinted with permission of Ernst & Young.


SEX OFFENDER

BY BRIAN CARNAHAN

Noteworthy Changes to 8823 Guide

In September, the IRS issued a revised version of the 8823 Guide. The Guide is used by state housing finance agencies (HFAs) to report non-compliance in the Low Income Housing Tax Credit program, but is generally viewed as the compliance handbook for the tax credit program. The Guide was originally issued in 2007.

By issuing this Guide, the IRS also provides guidance to owners and managers of tax credit communities. As the 8823 Guide clearly notes, it cannot be "used or cited as authority for setting or sustaining a technical position." This caveat is important, as it instructs state agencies and the owners and managers of tax credit communities to rely upon the Internal Revenue Code for guidance. Thus, based upon an interpretation of the Internal Revenue Code, state housing finance agencies may elect to establish policies and procedures that conflict with the 8823 Guide.

Overall, the revised 2009 Guide differs relatively little from the original. Several recent changes, such as the passage of HR 3221, which included the income recertification exemption for 100 percent low-income projects, is included in the Guide. The revised utility allowance regulation is also highlighted. Examples and definitions have been expanded.

To get the most from the Guide:

1. Attend trainings and take advantage of webinars to learn more about the Guide;

2. Read the Guide—a seemingly obvious suggestion, but an often ignored activity. State agencies, investors, and others will be using the Guide to set policies and procedures. The more you know, the better prepared you will be to adapt to changes.

3. Work closely with the state agency where you have projects. Since the Guide does not have the force of law, state agencies can deviate from it in certain areas.

4. Consult your investor, attorney and accountant. These parties may have suggestions regarding the Guide and how project owners and managers should respond to it.

The 8823 Guide can be downloaded at www.ohiohome.org/compliance/IRS/8823guide_10-09.pdf.

Several recent changes, such as the passage of HR 3221, which included the income recertification exemption for 100 percent low-income projects, is included in the Guide. The revised utility allowance regulation is also highlighted.

CHANGES BY CHAPTER AND PAGE

Chapter 4, Page 2: The state agency is only required to review move-in files at 100 percent low income projects.

Chapter 4, Page 3: Earned and unearned income from foster adults and the unearned income of foster children are included in the income calculation, even though foster adults and foster children are not included in the household size for purposes of determining the appropriate income limit. Since this guidance is derived from the HUD 4350.3 Handbook, it makes sense to follow the recommendation as outlined in the 4350.3 Handbook.

Chapter 4, Pages 7-8: If a household has little income, zero income or the income fluctuates, the actual income earned currently or over the previous 12 months may be used to qualify the household.

Chapter 4, Pages 10-11: The Guide adopts the language regarding flexibility for households where a member is deployed by the military. Again, follow the recommendation as outlined in the 4350.3 Handbook.

Chapter 4, Page 13: Businesses operated from a tax credit unit are not in violation of the tax credit program. It is reasonable to assume the property owner may establish rules regarding home businesses. In addition, any business use of the unit must conform to local ordinances. The Guide does indicate that residents wishing to provide day care services must follow specific requirements as outlined in the Guide.

Chapter 4, Page 19: Education assistance in excess of tuition is only counted as income for purposes of the tax credit program if the household is receiving Section 8 assistance and does not meet the Section 8 exception applicable to heads of household over age 23 with dependent children. In addition, the excess assistance is not counted as income if the recipient of the financial aid is living in the unit with his or her parents.

Chapter 4, Page 27: Households previously qualified as low income under a prior tax credit allocation remain qualified as a low-income household if a new allocation is issued for a property. Developers seeking a new allocation of credits should acquire all records pertaining to the existing tax credit project to ensure that the initial low-income status of households can be properly documented.

Chapter 6, Page 7: State agencies must report all Uniform Physical Condition Standards (UPCS) violations identified during a physical inspection.

Chapter 11, Page 1: Compliance with rent limits can be determined on an annual and monthly basis. This implies that a unit could remain in compliance provided the annual rent does not exceed the aggregate maximum rent amount, even if the rent exceeds the limit in a given month or months. Owners and managers should ensure that monthly rent is at or below the applicable rent limit.

Chapter 11, Pages 9-10: A unit is out of compliance if the unit exceeds the limit on a monthly or annual basis. The Guide states that when a unit is out of compliance because of a rent limit violation, the unit is out of compliance for the entire tax year. The owner cannot avoid a disallowance of a credit by rebating rent. This statement appears to be contradictory to the concept that a unit/building is in compliance provided it is in compliance by the end of the tax year. A state HFA can continue to report rent limit violations to the IRS as required.

Chapter 14, Page 5: The Guide states that limited violations of the Available Unit Rule at 100 percent low-income properties (e.g., an over-income household is moved in) can be considered de minimis, and thus not place credits at risk, if the manager can show that appropriate policies and procedures were in place, and due diligence was conducted to ensure that violations would not occur. Owners and managers are advised to establish clear policies and procedures to ensure that units are leased appropriately to remain in compliance with the Available Unit Rule.

Chapter 17, Pages 2 and 5: The student status of all households must be verified annually. The IRS has provided a recommended certification form, and state HFAs may choose to create a variation on this recommended certification form.

Chapter 23, Page 2: The Guide affirms the right of state agencies to require additional income certifications at 100 percent low-income properties. For example, a state agency could require projects to conduct a second year recertification to ensure residents were properly qualified with the initial certification. In addition, the state agency could require an owner to continue completing recertification until the agency is confident residents are being properly certified.

The Guide states that when a unit is out of compliance because of a rent limit violation, the unit is out of compliance for the entire tax year.

Chapter 25, Page 1: Tenant fraud can no longer be reported to the fraud hotline. The 8823 Guide instructs that tenant fraud be reported using IRS Form 211, not the hotline. Form 211 can be downloaded at ttp://www.irs.gov/pub/irs-pdf/f211.pdf. NN

Brian Carnahan is Director, Office of Program Compliance, at the Ohio Housing Finance Agency.

HUD on Hold, Rural Housing Progresses

ON OCTOBER 30, BOTH THE HOUSE AND SENATE PASSED the conference report for HR 2996, the FY 2010 Interior-Environment Appropriations, which extended the FY 2010 Continuing Resolution from October 31, 2009 to December 18, 2009. The CR will allow Congress additional time to finish uncompleted appropriations legislation, including the FY 2010 Transportation-HUD Appropriations.

In addition to providing funding for federal programs at FY 2009 levels, the CR extends the language which directs HUD to obligate funds to renew or amend, in a timely manner, all project-based Section 8, Section 202 and Section 811 rental assistance contracts and allows payments to be made beyond the December 18, 2009 end date.

Under the new CR, PHAs may use funds from the $410 billion FY 09 omnibus package to prevent the termination of low income housing assistance.

In early October, both the House and Senate passed the conference report on the FY 10 Agriculture Appropriations bill. The conference legislation contains funding for the rural multifamily housing programs, including:

- **$980 million for rural rental assistance;**
- **$45 million for rural housing assistance grants for rehabilitation and repairs;**
- **$69.5 million for Section 515 Housing Direct Loans;**
- **$129 million for Section 538 Housing Loan Guarantees (interest subsidies not included); and**
- **$43.2 million to the Multifamily Housing Revitalization Program ($16.4 million in vouchers, $25 million for the demonstration program, and $2 million for non-profit loans).**

The rural housing rental assistance grants are a consolidation of grant line items previously listed individually for each section funding level. The bill was signed into law by President Obama on October 21, 2009 as PL 111-80. NN

NAHMA Pushes Rural Policy Priorities

NAHMA continues to dedicate resources, time and care to the issue of rural housing. Although Congress just passed the FY 2010 Agriculture Appropriations bill [see related article on page 12], which funded important RHS multifamily programs, there is still much to advocate for when it comes to preserving rural housing and installing efficiencies in the programs' administration.

NAHMA's recently released list of rural policy priorities are meant to improve owners' confidence in federal housing programs, streamline administration of the programs and increase the choices of affordable communities of quality for low-income Americans. NAHMA will continue to refine and utilize these policy positions when working with the Administration and Congress. These priorities include:

1. Ensuring adequate funding for multifamily rural housing programs;

2. Reinstating the Section 538 interest subsidy that was removed from the program in the FY 2009 appropriations (which was not reinstated in the 2010 appropriations).

3. Advancing legislation to preserve the affordable multifamily rural housing portfolio. (The 2010 appropriations includes some funding for rehab and repair, but not at all near the level of need);

4. Improving the process for and results of the improper payments audit; and

5. Developing a policy within the management fee structure that uses financial incentives to reward management companies that exceed the minimum performance standards.

The rationale for these priorities is as follows.

As of the last fiscal year, the terms of the rural rental assistance contracts changed to one-year contracts, requiring a much larger funding level than in years past.

SEEKING ADEQUATE FUNDING OVERALL

NAHMA was disappointed that the Administration's FY 2010 budget request flatlined most of the rural multifamily housing accounts. In the final appropriations, increases to the rural housing production and preservation programs were modest.

NAHMA is disappointed that there is still no interest subsidy for the Section 538 program in the FY 2010 budget. The loss of the interest subsidy in FY 2009 reduced developers' ability to complete deals, provide additional capital for preservation projects, and improve the quality of tenants' lives. NAHMA will continue to urge RHS to request the interest subsidy in the USDA's FY 2011 budget request.

Until recently, housing providers used the Low Income Housing Tax Credit (LIHTC) to help preserve, rehabilitate or construct rural apartment communities. However, the equity investment from the LIHTC program has become extremely sparse in rural America. It is more important than ever to have sufficiently funded, well administered rural multifamily production and preservation programs to provide quality rental housing in rural areas.

As of the last fiscal year, the terms of the rural rental assistance contracts changed to one-year contracts, requiring a much larger funding level than in years past. For FY 09, Congress provided $980 million for RA.

Finally, NAHMA is urging RHS to increase its funding requests for all rural multifamily housing programs in the Administration's FY 2011 budget proposal. The economic and public policy arguments to invest in rural housing outweigh traditional budgetary concerns. Americans

should have access to safe, quality and affordable housing and good jobs, no matter where they live. NAHMA especially urges RHS to request increased funding for its multifamily construction and preservation programs to stimulate investment and job creation in these often forgotten areas.

REINSTATING THE SECTION 538 INTEREST SUBSIDY

NAHMA members have said that without the Section 538 interest subsidy they are finding it harder to close deals. They no longer have the same opportunities the subsidy afforded them to increase capital and reserves for rehabilitation and property improvements.

In the FY 2009 Agriculture Appropriations Act, Congress removed the interest subsidy from the Section 538 program. This change had been initially requested by the Bush Administration. The interest subsidy paid for 2.5 percent of the interest on a conventional loan with a Section 538 guarantee. For example, if the lender offered a 7 percent interest rate on a Section 538 guaranteed loan with interest subsidy, Rural Development paid 2.5 percent of the interest on that loan. The effective interest rate for the owner on the loan would have been 4.5 percent, which increased the capital available to complete the deal, and made the loan more affordable.

The interest subsidy also allowed properties to carry higher leverage on the loans. Higher leverage gave borrowers the opportunity to carry a higher loan amount, which allowed for improvements to the project and a better quality of life for the residents. For example, housing operators could upgrade the roof tops, provide better appliances for the tenants, or make other improvements to their properties while keeping rents affordable.

Historically, the Section 538 loan guarantees worked well with low-income housing tax credits (LIHTCs). The combination of programs helped to free up additional capital for preservation.

However, the financial crisis has dried up much of the equity for investment, and rural areas have been especially hurt.

Rep. Shelly Moore Capito (R-WV) introduced legislation in the House to reinstate the interest subsidy, but it has not moved forward.

PRESERVING THE HOUSING PORTFOLIO

Preservation is a cost-effective way to prevent a net loss of affordable rental housing. To NAHMA, "preservation" means maintaining the current portfolio of privately-owned, federally-assisted apartments as affordable to low-income families through a public-private partnership which offers *voluntary* incentives to owners and ensures long-term sustainability of the properties, including the ability to recapitalize.

NAHMA recommends that any multifamily housing preservation bill ensure long-term financial and physical sustainability of preserved affordable properties.

NAHMA also believes an interagency group should be established to resolve conflicting regulatory requirements in the major federal rental assistance programs in order to streamline the use of mixed-financing. Although the LIHTC program continues to struggle in rural areas, it was a valuable preservation tool for Section 515 properties until the financial crisis dried up demand for Tax Credits.

NAHMA strongly supports "exit tax" relief for owners who sell their properties to buyers who will continue operating the projects as affordable housing. It also believes a grant program that provides gap financing to qualified preservation entities (both for-profit or nonprofit) would facilitate more successful preservation transactions.

> NAHMA strongly supports "exit tax" relief for owners who sell their properties to buyers who will continue operating the projects as affordable housing.

REDUCING ERRORS IN SUBSIDY CALCULATIONS

The RHS Rental Assistance (RA) program is subject to reporting under the Improper Payments Information Act (IPIA) due to the size of annual appropriations and outlays. The IPIA audit is designed to determine if the appropriate RA subsidy is being paid on behalf of tenants. The basis for this determination is a review of the tenant's file and income verification documentation collected by the property manager. If documentation is missing, insufficient or the subsidy calculated incorrectly, the subsidy payment is determined to be in error.

Since learning the results of the FY 08 IPIA audit, NAHMA has taken initiatives to help reduce errors in RA subsidy calculations. The initial results indicated an error rate exceeding 8 percent of RA payments. With the industry's help in getting the word out to our members about the importance of participating in the audit if asked and adopting policies and procedures to improve compliance, the final adjusted error rate was reduced to 3.95 percent.

NAHMA also advocated for a change in the law which would allow the Enterprise Income Verification (EIV) system to be used to certify the income for tenants

assisted through RA. EIV would allow rural housing providers to check reported income against Social Security (SS), Supplemental Security Income (SSI), new hires (W-4), and wage and unemployment compensation records. EIV would help ensure the right amount of RA is provided to qualified families. It would also help discourage fraud and create savings for the Section 521 program.

RHS has acknowledged a substantial improvement in the final error rate in the audit of FY 09 RA payments compared to the FY 08 results. The final adjusted error rate of 2.06 percent is the lowest rate since the agency began reporting six years ago. However, NAHMA understands that RHS remains concerned about income calculation differences on SSI and wages, medical deductions that did not match documentation, and lack of documentation in the files.

In May 2009, RHS informed NAHMA that the following measures would be put into place to reduce the error rate:

a. "Establish a working group with the property management business partners and the Agency to continue providing educational opportunities for the industry regarding the importance of the IPIA process and the types of errors that were identified."

b. "Implement a new management agent performance assessment review that will reward consistently compliant management agents and reduce management fees paid to noncompliant management agents. Errors made on tenant certifications will be one of six criteria used for determining reduction in management fees paid."

c. "The National Office will continue to pursue access to the HHS New Hires data and HUD's Enterprise Income Verification System to be shared with State Offices and management agents."

NAHMA has asked that RHS pursue the following recommendations to further improve the IPIA audit results:

- Inform the industry working group when the audit begins, so that property owners and managers can look for the letters announcing their project has been selected;
- In addition to contacting the on-site property manager, RHS should also contact the headquarters of the property management company responsible for the site, as there is frequent staff turnover at the site level;
- Achieve greater consistency in field office policy and procedures;
- Refrain from adding unpredictable, punitive changes to the management fee structure; and
- Continue to pursue a statutory change which would allow the EIV system to be used for income verification in the RA program.

PURSUING FAIRNESS

On August 7, 2009 Public Notice 431 announced the management fee schedule for FY 2010. The management fees will be effective January 1, 2010. The fee increases vary substantially from state to state. Texas received the largest increase of $10.50 per unit per month, followed at a distant second by Nebraska's $5.50 per unit per month increase. Seven states—Alabama, Idaho, Indiana, Michigan, Minnesota, Ohio and Wisconsin—will receive *no* increase in FY 2010 management fees.

NAHMA's members are seriously concerned about the methodology RHS used to determine the fee schedule—particularly in states that are receiving no increase. It is unrealistic to assume that management costs will not increase in these seven states, especially considering the dismal economic conditions in those states. NAHMA strongly urged the agency to revise this fee schedule and to provide an appropriate, fair increase to management companies in all states.

Fairness is also a theme in NAHMA's position concerning the Portfolio Management Division Draft of the Property Management Performance Assessment Review (PAR). Many of the proposed changes are intended to reduce subsidy calculation errors and regulatory noncompliance.

However, NAHMA is interested in working with RD to develop a policy which would use financial incentives to reward management companies that exceed minimum performance standards. A positive, incentive-based approach is more likely to achieve the compliance that RHS seeks. On the other hand, NAHMA strongly opposes the redundant and counterproductive penalties proposed in the discussion draft and strongly urged RD to remove the management fee penalties from the PAR and instead to work with the industry to create a successful incentive-based system.

Furthermore, NAHMA has asked RD to convene a solution-oriented occupancy working group with its industry partners. For updates, visit www.nahma.org. **NN**

Fall Meeting a Success, Future Meetings Scheduled

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Regulatory affairs was once again the focus of NAHMA's fall meeting, held October 18-20, 2009.

Members were able to query senior HUD, IRS and other government regulators on numerous issues, policies and procedures at a regulatory forum. Various NAHMA committees also included regulatory senior staff.

AHMA liaisons and executive directors met to discuss issues of particular interest to their states or regions. Networking opportunities, new member orientation and committee meetings rounded out the program, with special events that included the NAHMA Educational Foundation reception and poster auction.

The luncheon keynote speaker was Juan Williams, senior correspondent for National Public Radio and political analyst for Fox News.

Plans are already in the works for NAHMA's upcoming winter meeting, which will focus on legislative issues and will be held March 14-16, 2010 (Sunday-Tuesday) in Washington, D.C. Also in the planning stages is NAHMA's summer meeting, which for the first time will be held in conjunction with the National Apartment Association's (NAA) Annual Conference and Exposition. The summer meeting will be held June 23-26, 2010 in New Orleans. For more information, see NAHMA's website at www.nahma.org. NN


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1. NAHMA members enjoy the keynote presentation

2. Grand-prize winner Glenn Villalona signs his winning artwork

3. From left, NAHMA members Wayne Fox and Steve Protulis, with keynoter, Juan Williams

4. Assistant Secretary for Housing & FHA Commissioner David H. Stevens addresses NAHMA member questions

5. Michelle Kitchen, NAHMA staff, displays her martial arts skills

A Special Thanks to Fall Meeting Sponsors

NAHMA wishes to thank the sponsors who made the fall conference such an enjoyable and productive one.

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Getting Smart About Cable TV, Phone and Data Contracts

Why are some owners receiving a payment from their cable TV, phone and data providers while others are not? Why are some in costly litigation with the service provider?

The answer is simple: Some owners know how to take advantage of new opportunities in today's fast-changing telecommunications landscape, while others are still struggling to understand their basic rights and obligations with regard to cable TV contracts and services.

A bulk cable TV and/or data contract is usually one of the largest expenses in any given property's budget. For properties without bulk contracts, cable TV, voice and data services are both a challenging service issue for residents and a potential revenue source for the property owner. Therefore, it's important to analyze all options to help realize financial benefits while delivering the best possible service to residents.

A CHANGING MARKETPLACE

Clearly, the world of telecommunications is changing quickly. Across the country, broadcast TV stations have switched from analog to digital, rendering older sets obsolete. In addition, competitors are challenging dominant cable providers like Comcast and Brighthouse with new products and services, such as AT&T's U-verse broadband offering. Meanwhile, many smaller operators are facing financial difficulties in the national economic downturn.

As a result, now is an ideal time to re-examine current cable TV contracts (bulk or non-bulk service)—even if the expiration dates are still a few years away. Changes in the marketplace, technology and pricing are putting property owners in a stronger position to bargain than was the case a few years ago. And if the original provider was acquired by one of the leaders, an owner is in an even stronger position: cable companies often prefer to negotiate a new contract in order to avoid any legal challenges.

Before beginning the contract negotiation process, take the time to learn as much as possible about the key issues involved in the telecommunication contracts and service agreements. Here are some suggestions.

- Compare rate structures, program offerings and non-bulk contract opportunities. This is the starting point for choosing a provider, so it's important to get as much information as possible. Then compare the bulk rates offered to a property with those available to individual subscribers to see if there is a real financial benefit. Communities without bulk contracts should compare revenue offerings from each cable and telecommunications provider.
- Check existing agreements and documents. Technology evolves far more quickly than the legal or regulatory environment. If a provider offers a bundled cable TV, broadband or voice package, be sure the contract can be signed. Many older documents only cover cable TV and may need to be amended.
- Determine the right contract length. Most providers prefer a long-term contract, giving them enough time to recover the cost of their technology investment in the property. The current provider may agree to a shorter term, but that's not necessarily the best choice. It is a misconception to expect cable TV, phone and data costs to fall in the future—especially as program-related expenses are actually rising faster than the cost-of-living index.
- Examine the automatic renewal clause. Take a look at the current contract to see when there is a "window" to cancel or renegotiate prior to an automatic renewal. When reviewing a new contract, preserve as many options as possible. Be sure there is a choice to cancel or renew in the future.
- Retain ownership of the wiring. While some telecommunication contracts state that the operator has exclusive use of wiring, preserve your rights to each community's infrastructure. Otherwise, a new provider might have to install new wiring throughout the community—a costly proposition for all parties.
- Review the strength of the provider. It can be easy to forget that the contract just sets the legal framework for a relationship with the provider. Be

sure the provider will answer the phone when called and send out a repair truck when necessary. Just because a company promises great service during the contract negotiation period doesn't mean it is assured.

- Consider satellite technology. Satellite services offer rate and program packages that are highly competitive with cable TV offerings. But be aware that it is a local franchisee—not the parent brand—that will sign the contract. That makes it imperative to review the franchisee's credentials carefully.
- Protect/negotiate the community TV channel. When negotiating a new contract, ask about which community programming and content is allowed and how the community's own channel will be supported. Otherwise, a change in technology could disrupt the properties' cable TV programming and advertising revenue stream.

BUILD A SMART COMMUNITY

Finally, it is essential to think about the community as a whole before making any telecommunication-related decision. That's the essence of building a "smart community" for the 21st century. After all, the telecommunications infrastructure provides the core framework for all the community's technologies: the wired and wireless networks (including web portals), closed-circuit television (CCTV), security, energy management, wireless (wi-fi) services, cellular services and more.

The best time to take a look at the big picture is when new contracts are being negotiated—otherwise, important financial and service opportunities could be lost.

A smart community program should include:

- Cellular. In addition to reviewing roof rights and existing cellular tower leases, develop a strategy to allow residents to participate in discounts while generating rebates and/or revenues in exchange for a preferred marketing relationship. Also identify applications that can allow residents to remotely access various features on the properties at no additional cost.
- Community Web Portals and/or Community TV Channels. In a digital world, a web portal can be the center of the universe, allowing management companies to effectively communicate with residents and prospects while creating an effective revenue-producing amenity. The portal will also form the basis for community-wide alerts and notifications and could become a significant advertising platform that results in revenues.
- Technology Concierge. Review options for creating new amenities which improve the overall level of technical support for the properties by identifying national service providers that provide discounted services and premium rewards to residents. The programs may also include a rebate in exchange for a preferred marketing relationship.
- Security, CCTV, Fire and Access Control. Review any current agreements and negotiate preferred rates and rebates, including creating operational efficiencies (e.g., reducing the number of phone lines), remote access to CCTV images and more.
- Energy Savings or Going 'Green'. In multiple dwelling unit (MDU) environments, there are many opportunities to reduce the overall consumption of energy, including participation in utility rebate programs and more. Remote access to a resident's thermostat via the portal is a viable and relevant option to consider. NN

Jason Scutt is a principal of Converged Services Inc. (CSI), an independent consulting firm that specializes in bulk or non-bulk right of entry agreements for cable television, Internet and technology service contracts (www.convergedservicesinc.com).

Housing Providers Push for Dedicated LEP Funding

Eight national organizations representing affordable multifamily housing providers, including and led by NAHMA, are pushing for a stand-alone limited English proficiency (LEP) authorization bill. This would allow HUD to better serve persons with limited proficiency in the English language by providing technical assistance to recipients of federal funds.

In 2007, such legislation was introduced by Senator Robert Menendez (D-NJ).

In a recent letter to Sen. Menendez, the organizations noted that HUD has translated a number of its documents into 13 languages. Authorization of an LEP technical assistance program would provide greater assurance that HUD continues to be funded for LEP translations and services, the letter said.

While "we are hopeful that this can be addressed as part of a workable Section 8 reform package … we believe having a stand-alone bill would be extremely helpful to continue the momentum on this issue," the letter said.

In the previous Congress, Sen. Menendez's carefully crafted legislation (S 2018) addressed the concerns of affordable housing providers and civil rights advocates. It also provided an excellent framework for guiding HUD in the use of LEP appropriations and the implementation of HUD's LEP guidance.

Of particular interest were provisions in the bill which would have:

- Created a task force of industry and civil rights stakeholders to identify vital documents (to include both official HUD forms and unofficial property documents);
- Required HUD to translate the vital documents within six months; and
- Created a HUD-administered 1-800 hotline to assist with oral interpretation needs. Because S 2018 did not become law before the 110th Congress adjourned, it must be reintroduced.

The signing organizations are hopeful that Sen. Menendez will continue to take a leadership position on this important issue. In addition to NAHMA, the signing organizations included the American Association of Homes and Services for the Aging, the Council for Affordable and Rural Housing, the Institute of Real Estate Management, the National Apartment Association, the National Association of Home Builders, the National Leased Housing Association and the National Multi Housing Council.

Translations currently available can be found at HUD's limited English proficiency webpage at www.hud.gov/offices/fheo/promotingfh/lep.cfm. The materials include brochures and booklets, fact sheets, forms, an "I Speak" language-identification card, posters and public service announcements. **NN**

HUD Considers Ending Income Limit Hold Harmless Policy

On September 11, 2009, HUD released a notice in the Federal Register entitled *Request for Comments on Ending "Hold Harmless" Policy in Calculating Income Limits Under Section 8 of the United States Housing Act of 1937* (Docket No. FR–5323–N–01, Sept. 11, 2009). This is part of HUD's consideration of ending the "hold harmless" practice, where Section 8 income limits are maintained at the previously published level in cases where HUD's estimate of area median income (AMI) would lead to a lower income limit than was previously published.

Historically, HUD has held Section 8 income limits harmless primarily so that Low Income Housing Tax Credits (LIHTCs) and bond-financed projects would not be subject to reductions in income qualification levels and maximum rents. LIHTC and tax exempt bond-financed housing project income limits and rents are tied by statute to HUD's AMI estimates, and by regulation to HUD's Section 8 income limits.

Section 3009 of HR 3221, the Housing and Economic Recovery Act of 2008 (HERA), provided for immediate holding harmless of "area median gross income" for tax credit and tax-exempt bond-financed housing projects.

In light of HERA, HUD announced its consideration of ending the practice for Section 8.

At press time, NAHMA signed on to an extensive industry comment document that outlined concerns with ending the hold harmless practice. The notice and comments are located on NAHMA's website under the HUD tab (www.nahma.org). **NN**

NAHMA Offers New Marketing, Advocacy Tool

On Nov. 13 NAHMA, in partnership with ApartmentSmart.com, launched a new, innovative tool for its members: NAHMA Maps (http://nahma.apartmentsmart.com). The NAHMA Maps program will work as an advocacy and marketing tool, providing the most comprehensive and up-to-date listing of affordable housing properties nationwide.

As part of this joint venture, ApartmentSmart.com is offering a free general listing to all NAHMA members in order to collect additional data for the NAHMA Maps program. ApartmentSmart.com is also offering NAHMA members an upgrade to a premium listing at a discounted rate as part of their partnership with NAHMA.

NAHMA and ApartmentSmart.com have sent a press release to NAHMA members with additional information and instructions on how to register for the free general property listings.

The program will allow users to search by location and Congressional District and generate a quick snapshot of affordable housing statistics for an area. The program will also provide a list of properties below the map that will link to additional information on the property, such as location, contact information, name of management company, number of units, types of federal subsidies, income limits and rents, amenities, pictures, etc.

The program will allow users to search by location and Congressional District and generate a quick snapshot of affordable housing statistics for an area.

Being a part of this new program offers a number of benefits to both NAHMA and its members. First, NAHMA Maps will allow members to provide visual and statistical information to their congressional representatives on the affordable housing portfolio, including NAHMA properties, in their congressional district or state. It highlights the importance of the work NAHMA members have done to improve the quality of life for low-income residents and demonstrates how well the affordable housing programs are working.

Second, the program will provide increased visibility for NAHMA's Communities of Quality® program, which recognizes the top affordable housing properties in the nation, by posting them online in a mainstream

Calendars Are Here, Just In Time for the Holidays!

Looking for an affordable gift to give your family, friends, employees and/or residents? Look no further, for NAHMA's *AHMA Drug-Free Kid Calendars* are in—and are *most* affordable.

For just $5.50 each, you can remind everybody in your affordable housing community about just why the calendar contest is so important. Here are just a few reasons:

1. The calendar contest offers an opportunity for the young and the young at heart to express themselves creatively. Now in its 23rd year, NAHMA's calendar contest has an inspiring theme (this year it was "My Hopes, My Future –Healthy Minds and Healthy Bodies") that brings out the best in the artists who compete.

2. It is NAHMA's major fundraiser, enabling NAHMA to move its mission forward on behalf of its members and the residents living in member communities.

3. It honors the winners. This year's grand-prize winner, whose artwork is featured on the cover, is Glenn Villalona, a 7th-grader who lives in the Oxford Gardens in Providence, RI. His entry was submitted by NEAHMA. In addition to Villalona's cover art, 13 additional winners have their work displayed on the inside pages of the 2010 calendar.

4. You can expense it! Because the calendars project an important message to children and adults, they continue to be a HUD and Department of Agriculture allowable project expense.

5. You could earn QAP points! You may earn points in your state's tax credit Qualified Application Process (QAP) for supporting affordable housing services in the tax credit allocation process.

6. You get prizes! For ordering 100 calendars by November 20, you receive a free copy of the new *Practical Guide to Tax Credit Housing Management*. Also by

marketplace through this popular rental housing search portal.

Finally, being a part of NAHMA Maps means that NAHMA member properties will receive an additional marketing tool to help them fill vacancies. ApartmentSmart.com reports that 3.5 million low-income people searching for housing use their website each year, giving a large potential low-income tenant base access to information on all NAHMA properties in their area when looking for a place to live.

NAHMA expects that this tool will become an invaluable and effective resource to its members in their efforts to provide safe, clean and affordable rental housing to Americans nationwide.

Please contact Lauren Eardensohn or Joe Thomas at NAHMA for additional information regarding the NAHMA Maps program at (703) 683-8630. NAHMA Maps is located at http://nahma.apartmentsmart.com. NN

placing an order by November 20, you enter NAHMA's Lucky Draw for free prizes that include free NAHMA meeting registrations, American Express gift cards, and others (see enclosed order form).

7. Lastly, they do make great holiday gifts, and the holidays are just around the corner.

Add up all these reasons, and how can you go wrong? Use the order form inside this issue of *NAHMA News*, go to NAHMA's website store at www.nahma.org/store or call NAHMA at 703-683-8630 for a faxable order form. NN

Scholarship E-Application Released

The NAHMA Educational Foundation released its 2010 scholarship application on October 29, 2009. For the first time, the application was digitized and can only be submitted electronically.

The Foundation sincerely hopes that this early release date allows AHMA executive directors and management company personnel to get the word out about the scholarships to residents, thus allowing them plenty of time to complete an application. Last year, the early release of the application resulted in an increased number of applications from a broader cross section of the nation.

One of the Foundation's goals for 2010 is to have applications from every AHMA in the country.

"The Foundation views the creation of the web-based application as a positive and progressive step that should make filing an application easier for residents and at the same time decrease the Foundation's administrative costs," said Wayne Fox, chairman of the Foundation, at NAHMA's fall meeting.

The process of designing the custom software needed to meet the Foundation's needs was done pro bono by PlanetTelecom. The company, headquartered in Louisville, Kentucky, is considered a pioneer in voice and data convergence. The top executives of PlanetTelecom, David Durik and Phillip Hawkins, are active members of NAHMA's affiliate group.

Through its first three years, the Foundation awarded scholarships worth more than $100,000 to more than 110 recipients. Dr. Bruce W. Johnson, NAHMA Educational Foundation program administrator, stressed that no substantive changes were made to the application format or requirements.

The deadline for submission of completed applications is May 18, 2010. At 10 p.m. EST on May 18th, the system will "lock out." Any partially completed applications at that time will not be considered, and no individual will be able to file a new application. "The Foundation is hopeful that any member apartment community with a HUD-sponsored Neighborhood Networks laboratory will assist residents with filing their application," Johnson said.

Sites without a computer laboratory are encouraged to remind potential resident applicants of computer availability at their local public library.

To access the 2010 application, go to www.nahma.org, click on the "NAHMA Educational Foundation" icon and follow the simple directions shown there. Check it out today! NN

A NEW REQUIREMENT FOR OWNERS AND MANAGEMENT AGENTS IS contained in Housing Notice H 2009-13, "Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Person or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing," which was issued on September 15, 2009. The Notice also transmits form HUD-92006, Supplement to Application for Federally Assisted Housing. The Notice provides guidance on implementation of the requirements of Section 644 of the Housing and Community Development Act of 1992, which requires that owners and management agents (O/As) must provide applicants for housing the option to include information on an individual or organization that the O/A may contact to assist in providing any delivery of services or special care to applicants who become tenants and to assist with resolving any tenancy issues arising during tenancy.

To ensure that O/As comply with this requirement, HUD has provided a standard form for use in gathering the information from applicants. Completion of the form is optional on the part of the applicant. O/As must begin including form HUD-92006 as part of their application package by no later than 90 days from the date the notice was issued, September 15, 2009. Section 644 requires that O/As keep the contact information confidential and can only release the information for the stated statutory purpose: To assist the O/A in providing services or special care for such tenants, and in resolving issues that may arise during the tenancy of such tenants.

Notice H 2009-13 is posted at: http://www.hud.gov/offices/adm/hudclips/notices/hsg/. Form HUD-92006 is posted at: http://www.hud.gov/offices/adm/hudclips/forms/. NN

INITIATIVE FOR STATE AND LOCAL HOUSING FINANCE AGENCIES

HUD, TREASURY AND THE FEDERAL Housing Finance Agency (FHFA) have announced a new initiative for state and local housing finance agencies (HFAs) that will help support low mortgage rates and expand resources for low- and middle-income borrowers to purchase or rent homes that are affordable over the long term. The initiative will consist of two programs: a new bond purchase program to support new lending by HFAs and a temporary credit and liquidity program to improve the access of HFAs to liquidity for outstanding HFA bonds.

NAHMA members would be most interested in the New Issue Bond Program (NIBP), which provides temporary financing for HFAs to issue new mortgage revenue bonds, including multifamily bonds. Under the program, Treasury will purchase securities of Fannie Mae and Freddie Mac backed by these new mortgage revenue bonds, which will support the development of tens of thousands of new rental housing units for working families and assist single-family borrowers.

Treasury was given the authority to enact the HFA initiative under the Housing and Economic Recovery Act of 2008 (HERA). It will be paid for by the HFAs and, as a temporary program, it gives an incentive for HFAs to transition back to market sources of capital as quickly as possible. NN

HUD NEWS

A PROPOSED RULE, "REFINEMENT OF INCOME AND RENT DETERMINATION REQUIREMENTS in Public and Assisted Housing Programs: Implementation of Enterprise Income Verification—Proposed Amendments," was published in the Federal Register on October 15, 2009. The proposed rule can also be found at http://edocket.access.gpo.gov/2009/pdf/E9-24809.pdf. Through this rule, HUD is proposing to make certain changes to the Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs, Final Rule published in the Federal Register on January 27, 2009, and scheduled to become effective on January 31, 2010, which HUD believes will address the issues and concerns raised by public commenters. In addition, other issues found in the Final Rule have been deferred to subsequent rulemaking. NAHMA will be commenting on the proposed rule and the comments will be posted at www.nahma.org.

HUD HAS RELEASED ADDITIONAL GUIDANCE ON THE TCAP FEES AND ASSET MANAGEMENT (Sept. 18, 2009) and Projects with Existing Environmental Review (Sept. 4, 2009). The documents may be accessed at http://portal.hud.gov/portal/page/portal/RECOVERY/programs/TAX or at the NAHMA HUD website under the TCAP Section at www.nahma.org/member/hud.html#TCAP.

HUD HAS RELEASED THE FY MULTIFAMILY MORTGAGE INSURANCE PREMIUMS (MIPS) for FHA's multifamily mortgage insurance programs, health care facilities and hospital insurance programs that have commitments to be issued or reissued in FY 2010. The FY 2010 MIPs are the same as in FY2009. Also, HUD announced that (A) The credit subsidy obligations [for the Section

221(d)(3), Section 241(a) and Section 223(d) programs] for FY 2010 are the same as those for firm commitments issued or reissued in FY2009; and (B) The addition of an MIP for FHA's hospital insurance program, Section 242/223f refinancing of an existing hospital. The MIPs are effective on October 1, 2009.

HUD HAS POSTED "EIV RULES OF BEHAVIOR FOR PEOPLE WHO DO NOT HAVE ACCESS TO EIV BUT WHO USE EIV FOR CERTIFICATION." This document is for individuals who have access to EIV reports but do not have access to the EIV database through Secure Systems. The EIV Rules of Behavior is available on HUD's website by going to http://www.hud.gov/offices/hsg/mfh/rhiip/eiv/rulesofbehavior.pdf or by visiting NAHMA's HUD website at http://www.nahma.org/member/hud.html.

HUD PUBLISHED A PROPOSED RULE, "PROHIBITION OF THE ESCROWING OF TAX CREDIT EQUITY" to conform its FHA multifamily mortgage insurance regulations to a provision in the Housing and Economic Recovery Act of 2008. The regulatory section would now specifically prohibit HUD from requiring the escrowing of equity from the sales of tax credits. This change is mandated directly by the statute, so HUD has no discretion in this regard. This rule would not prohibit HUD from requiring escrows of funds for other purposes, such as for working capital.

In addition, the proposed rule would change the current treatment of historic and new market housing tax credits, which are not controlled by the statute. Hence, HUD has some discretion as to how these types of tax credits are considered in the underwriting of projects. Specifically, the escrow requirement would be eliminated when equity is provided from these types of tax credits. Finally, proceeds from New Market Tax Credits would be added to 24 CFR 200.54(b) as a type of funding that need not be fully disbursed prior to the disbursement of the mortgage proceeds, where approved by HUD.

Comments are due to HUD by Dec. 8, 2009. For more information, please see http://edocket.access.gpo.gov/2009/pdf/E9-24338.pdf.

ON SEPTEMBER 30, 2009 HUD PUBLISHED A NOTICE IN THE FEDERAL REGISTER of the "Final Fair Market Rents for Fiscal Year 2010 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program." Fair Market Rent (FMR) areas are determined by current Office of Management and Budget metropolitan area definitions, incorporating changes made in November 2008. The Fair Market Rents can be found at http://www.huduser.org/datasets/fmr.html. In addition, underlying data and computations used in developing the final FMRs for each area in the country is posted at www.huduser.org/datasets/fmr.html.

NAHMA HAS FILED COMMENTS in support of the Treasury/IRS Fiscal Services' Interim Final Rule, "Payments in Lieu of Low Income Housing Tax Credits," which extends the disbursement deadline of the HR 1, American Recovery and Reinvestment Act, LIHTC cash-exchange from December 31, 2010 to December 31, 2011. For a copy of the comments, please go to: http://www.nahma.org/member/Tax%20Credit/093009%20NAHMA's%20Cash%20Exchange%20Extension%20Comments.pdf.

HUD HAS RELEASED ITS NOTICE OF SECTION 202 DELEGATED PROCESSING FROM HR 3221, the Housing and Economic Recovery Act, passed last year. Notice H2009-10, Delegated Processing Procedures, is now online and available at http://www.hud.gov/offices/adm/hudclips/notices/hsg/files/09-10hsgn.doc. NN

AHMA President Works Her Values

A CAREER IN PROPERTY MANAGEMENT came along unexpectedly for Angie Waller, but it fit in well with her other roles as a reservist in the Navy, the spouse of a career Naval Sub Sailor and the mother of two children. She got into property management when a friend told her about a temporary position at a small company for the summer. When that was over, she was asked to stay by the company vice president who said he saw potential in her.

By the time the next six weeks were over, Waller was overseeing 400 units in several counties in and around Charleston, S.C. She stayed there for about three years. Then the vice president opened his own company, and she took a position there where she would stay for 18 years.

Waller first served as site manager at a tax credit property, then became a senior property manager, overseeing her own property and a couple more. She was then promoted to management director, then vice president of affordable housing, responsible for all the company's HUD and tax credit properties.

"This might sound more impressive than it was," Waller said, "since it was a small company pretty focused in the Charleston area."

AFTER 20 YEARS, A NEW OPPORTUNITY

About a year and a half ago, Waller was presented with a new opportunity with Ambling Management. "My children were grown, my husband retired from the Navy and I had retired from the Reserves," she said. "The time seemed right to go with a bigger company."

Though she had received offers from other companies, she went with Ambling "because it's not only a great property management firm, but it has the same values I do," she said. "The vision of the company is 'change the world, create wealth (not only monetarily but spiritually) and love life.' I just haven't found that in many other companies."

Waller's title is director of HUD programs, and she is also a regional property manager. Another principal responsibility "is to make sure all of our properties are doing things the same way, in terms of how files are set up and making sure everything is in compliance with HUD regulations. Every change HUD comes out with, we make sure they comply with. Just this past year we did a complete revision of all of our policies and procedures pertaining to HUD files, an effort that is ongoing."

BRINGING HER SKILLS TO SAHMA

Waller got involved with SAHMA in the mid-1990s. She started on the state level as South Carolina's trade show chairperson. She then became the state activities coordinator and eventually was invited to be state director and serve on SAHMA's board of directors. She was state director for five years before becoming SAHMA board's vice president of education, a role she enjoyed for two years before being nominated as president elect. She became president this past August.

SAHMA is the largest of the AHMAs and is always interested in expanding its programs and services. "About four years ago SAHMA became very active in Puerto Rico, and we have been steadily growing our presence and membership on the Island," Waller said.

SAHMA also tries "to reach out to the other AHMAs to work cooperatively with them. For example, we recently partnered with Rocky AHMA for their online basic occupancy training and are looking forward to expanding this partnership in the future. This online course has great content and we are delighted to help promote it."

RECIPROCAL RELATIONSHIP WITH NAHMA

One of SAHMA's biggest priorities is education, and it sponsors all the NAHMA courses as well as developing its own programs. SAHMA recently partnered with several consultants to create "a 504 coordinator class, our newest offering, and it has been well received." she said.

Waller thinks NAHMA and the AHMAs have a great reciprocal relationship. "NAHMA's advocacy is by far one of the best benefits we receive," she said. "They listen to our members' concerns and we work together to address issues, unlike some national organizations that don't listen to their constituents."

"Another great asset is the NAHMA Educational Foundation" she continued. "I think the scholarship program is wonderful. Residents of SAHMA member properties received 20 scholarships this year, and we support the fundraising efforts by being founding members and doing annual fundraising to support their programs."

Waller imagines herself as always being in the property management business somehow. "I see myself by age 60 slowing down, but if I ever retire, I would still be involved. It's in your blood," she said. "You can't help it." **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.

JANUARY

6
Basic Tax Credit
RI
Julie Kelliher, NEAHMA
(781) 380-4344

12
Report to Members-IRS Form 990 Update
Phoenix, AZ
Debbie Hawkins, AHMA-PSW
(866) 698-2462

13
LIHTC File Audit
MA
Julie Kelliher, NEAHMA
(781) 380-4344

Tax Credit
Long Beach, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

14
Reasonable Accommodation
MA
Julie Kelliher, NEAHMA
(781) 380-4344

HUD Occupancy Refresher
Long Beach, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

14–15
Occupancy Focus Class for HUD Housing Managers
Salem, OR
Maggie Meikle, Oregon AHMA,
(503) 357-7140

20
Industry Changes/Hot Issues
Boston
Julie Kelliher, NEAHMA
(781) 380-4344

25–27
CPO
San Diego, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

28
Maintenace - A New Attitude
San Diego, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

TBA
Renovation, Remodeling & Painting Rule
MA, CT, RI
Julie Kelliher, NEAHMA
(781) 380-4344

FEBRUARY

5 or 12
Roundtable-Dealing with Difficult People
San Diego, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

8–11
RAM
Long Beach, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

9
Fair Housing Course
Boston
Julie Kelliher, NEAHMA
(781) 380-4344

16
Arizona State Conference
Phoenix, AZ
Debbie Hawkins, AHMA-PSW
(866) 698-2462

19
Making the Most of Your Management Occupancy Review (MOR)
Salem, OR
Maggie Meikle, Oregon AHMA,
(503) 357-7140

23
Monthly Meeting
RI
Julie Kelliher, NEAHMA
(781) 380-4344

23–25
Certified Professional of Occupancy (CPO)
MA
Julie Kelliher, NEAHMA
(781) 380-4344

24
Monthly Meeting
MA
Julie Kelliher, NEAHMA
(781) 380-4344

25
Monthly Meeting
CT
Julie Kelliher, NEAHMA
(781) 380-4344

Membership Meeting-Kelly Revisited….One year later
Los Angeles, CA
Debbie Hawkins, AHMA-PSW
(866) 698-2462

TBA
Renovation, Remodeling & Painting Rule
MA, CT, RI
Julie Kelliher, NEAHMA
(781) 380-4344

MARCH

10
Basic Occupancy
Worcester, MA
Julie Kelliher, NEAHMA
(781) 380-4344

11
LIHTC Determining Income
MA
Julie Kelliher, NEAHMA
(781) 380-4344

12
Tax Credit With the Two T's!
Salem, OR
Maggie Meikle, Oregon AHMA,
(503) 357-7140

14–16
NAHMA Spring Meeting
Washington, DC
Joe Thomas, NAHMA
(703) 863-8630

16–18
Certified Professional of Occupancy (CPO)
Springfield, MA
Julie Kelliher, NEAHMA
(781) 380-4344

23–24
SHCM 1½ Day Prep Course/ SHCM Exam
Boston
Julie Kelliher, NEAHMA
(781) 380-4344

TBA
Maintenance Fair Housing
Boston
Julie Kelliher, NEAHMA
(781) 380-4344

APRIL

6
LIHTC File Audit
CT
Julie Kelliher, NEAHMA
(781) 380-4344

Fair Housing Course (FHC)
Springfield, MA
Julie Kelliher, NEAHMA
(781) 380-4344

7
Industry Changes/Hot Issues
MA
Julie Kelliher, NEAHMA
(781) 380-4344

16
REAC Refresher
Salem, OR
Maggie Meikle, Oregon AHMA,
(503) 357-7140

20
Agency Breakfast Meeting
RI
Julie Kelliher, NEAHMA
(781) 380-4344

21
Monthly Meeting
MA
Julie Kelliher, NEAHMA
(781) 380-4344

22
Agency Breakfast Meeting
ME/NH/VT
Julie Kelliher, NEAHMA
(781) 380-4344

TBA
Maintenance Fair Housing
RI
Julie Kelliher, NEAHMA
(781) 380-4344

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.

MAY

5
How to Deal with Multiple Subsidies
MA
Julie Kelliher, NEAHMA
(781) 380-4344

11
Financial Management/ Budget Preparation
RI
Julie Kelliher, NEAHMA
(781) 380-4344

12–14
Annual Spring Conference and Trade Show
Eugene
Maggie Meikle, Oregon AHMA,
(503) 357-7140

13
Agency Breakfast Meeting
CT
Julie Kelliher, NEAHMA
(781) 380-4344

18–20
Certified Professional of Occupancy (CPO)
RI
Julie Kelliher, NEAHMA
(781) 380-4344

19
Financial Management/ Budget Preparation
MA
Julie Kelliher, NEAHMA
(781) 380-4344

JUNE

8
LIHTC & Section 8 Income
MA
Julie Kelliher, NEAHMA
(781) 380-4344

9
Agency Breakfast
MA
Julie Kelliher, NEAHMA
(781) 380-4344

15
Fair Housing Course
RI
Julie Kelliher, NEAHMA
(781) 380-4344

17
Monthly Meeting
CT
Julie Kelliher, NEAHMA
(781) 380-4344

22
Monthly Meeting
RI
Julie Kelliher, NEAHMA
(781) 380-4344

23
NAHMA Summer Meeting
New Orleans, LA
Joe Thomas, NAHMA
(703) 863-8630

25
Scoring Those Special Claims Dollars!
Salem, OR
Maggie Meikle, Oregon AHMA,
(503) 357-7140

TBA
Roto-Rooter Basic, Hands-On Plumbing
MA
Julie Kelliher, NEAHMA
(781) 380-4344

REAC/Water and Mold
CT
Julie Kelliher, NEAHMA
(781) 380-4344

Ushering a Family Tradition Into a New Era

STEPHEN HARVILLE LITERALLY grew up in the insurance business. His parents owned an agency in Kingsport, Tennessee, called Kingsport Development Company Insurance, Inc. Harville began working there at the age of 14, continued through high school and then worked for a different insurance agency in Knoxville when he went to the University of Tennessee for four years.

He returned home to Kingsport and his family's business developed into more of a commercial insurance broker. He eventually bought the business (in 1987) and developed a specialty that has boded well for him for the last 30 years: insuring federally subsidized multifamily housing properties.

"We began with one such account in Knoxville," he said, "and through them we were introduced to folks who eventually became the founders of SAHMA."

"You can definitely tell the difference between NAHMA-member properties and non-NAHMA members, in terms of the quality of their managers and how they're trained."

Harville cultivated a good business relationship with SAHMA members and, since 1990, his company has been the endorsed insurance provider for SAHMA. In the mid-1980s he also began handling insurance for NAHMA.

AN OPPORTUNITY FOR EXPANSION

In 2004, Harville's company became affiliated with BB&T Insurance Services, which since 1872 has offered clients a complete range of financial services including banking, lending, insurance, trust, and wealth management solutions. BB&T is now the sixth largest insurance broker in the world. Harville said his division is the only affordable multifamily property management specialist in BB&T, "so the other offices come to our shop for the expertise in this arena." That, in effect, gives us 85 agencies who are our salespeople, which has enabled us to almost triple our volume in this field."

BB&T-KDC Insurance Services now insures both subsidized and non-subsidized properties in all 50 states and the Commonwealth of Puerto Rico.

But their specialty is HUD-subsidized multifamily housing, "which most of the insurance industry sees as a kind of pariah," he said. Harville and his staff are well acquainted with HUD regulations and procedures, which makes them uniquely qualified to give the best possible coverage and price.

Harville has also assisted NAHMA and other industry leaders in educating HUD, members of Congress and others on the need for adequate insurance coverage at subsidized properties.

For example, when the Gulf Coast was ravaged by hurricanes, including Hurricane Katrina, "the pricing of insurance went through the roof," he said. "Everybody was having problems getting the rent increases needed to cover this catastrophic insurance." Harville traveled to Washington, D.C. to help meet with HUD to explain the problems the affordable multifamily housing industry was facing and why they needed rental relief. "NAHMA's efforts were huge in getting HUD to understand this" he said.

CONTINUING A VALUED RELATIONSHIP

As one of the top brokers of this aspect of the insurance industry, Harville wants to continue to be "as involved as we can in the AHMAs and in NAHMA," not only because this leads to referrals that advances their business but because AHMA and NAHMA members "become better insureds than others in this industry," he said. Because the quality of training offered by the AHMAs and NAHMA results in better management practices, "We can show better loss ratios for their members than for others."

"You can definitely tell the difference between NAHMA-member properties and non-NAHMA members, in terms of the quality of their managers and how they're trained," he said. Harville conducts educational seminars for SAHMA when asked.

Harville continues to operate out of his hometown of Kingsport, and he and his wife recently became empty nesters. Their 28-year-old son lives in Charleston, S.C., their 26-year-old in Kingsport, Tenn. and their 18-year-old twins (a boy and a girl) recently began college in South Carolina. "We're on the road to see them all the time," he said.

Harville is an avid golfer, "so I try to do that whenever possible, and we're beach people as well," so visiting their children enables them to escape the stresses of an ever-expanding business that's come a long way from that single property-management client of so many years ago. **NN**

NAHMANews
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Alexandria, VA 22314
www.NAHMA.org

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PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

thelastword

BY DAN MURRAY, NAHP-e

A True Partnership With HUD

AT OUR ANNUAL MEETING, FHA Commissioner David H. Stevens came and spoke to us about HUD's commitment to affordable housing in general and its commitment to working with industry groups such as NAHMA in particular.

We haven't had this kind of high-level validation from HUD in awhile, and I think it speaks volumes about the new and much more positive environment we are working in with not just HUD, but other federal agencies as well.

The willingness of HUD staff to listen to and treat us as valued partners certainly bodes well for the future of affordable housing. Not that affordable housing isn't still severely underfunded; not that there still aren't compliance-related nightmares to contend with, or bureaucracies to deal with—but progress on many fronts can be made if a commitment to true partnership is in place.

HUD has become invigorated, and we are becoming a sounding board for agency staff when they really want to understand the effect of proposed regulations or policy positions. This is trickling down from the top, as well. I've seen local HUD staff become much more friendly and pumped up. That makes our jobs as managers and owners much easier. We practitioners now have a say in things that need to be fine-tuned, and we are being asked our opinion, whereas in the past it sometimes felt as if they hoped **not** to hear from us.

One of the things that keeps me engaged in this business is knowing that I am having a positive effect on people who otherwise would not have safe, attractive and affordable rental housing. I suspect that motivates people at HUD as well, and in my experience people tend to work harder and with more enthusiasm when this mission is honored every day rather than treated with indifference.

When I am recruiting my peers to join NAHMA and their local AHMA, I say, "You will meet some of the finest people you'll ever encounter. You will be part of an effort to really make a difference in affordable housing delivery, so that it is as efficient and effective as it can be. We offer a venue for your ideas to be heard, and for you to hear and learn from the ideas and experiences of others.'

I hope you are passing this message along to your peers as well, because the more members we have, the more clout we have.

NAHMA is having its next summer conference in partnership with the National Apartment Association, which presents the largest convention and trade show in our industry. We already provide trainers for some NAA seminars, and at the summer 2010 conference we will have our own track of classes on affordable housing, and there will be a special rate for members.

This represents a good opportunity to grow our membership. So begin now to invite your colleagues to join us so that they can both benefit from and contribute to the cause we all care so much about. **NN**

Dan Murray is President of Corcoran Jennison, Inc. and President of NAHMA.