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NAHPUpdate

HUD Update: Section 8 Renewal Policy

BY BRIAN GRANEY

IN THIS ISSUE

NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION (NAHMA)—Protecting the Interests of Affordable Housing Property Managers and Owners

For any owner or manager of a Section 8 (Sec. 8) affordable housing property, the Sec. 8 Renewal Policy Guidebook is a vitally important document, especially when a property's Housing Assistance Payments (HAP) contract approaches expiration or when an affordable housing property looks to refinance. On Aug. 7, the U.S. Department of Housing and Urban Development (HUD) released an updated version of the Sec. 8 Renewal Policy Guidebook, which became effective as of Nov. 5, 2015. The changes reflected in the updated version offer affordable housing owners and managers new benefits when refinancing their property through a HUD/Fannie Mae mortgage program.

Benefits outlined in the new version of the guidebook include:

- Use of a HUD multifamily accelerated processing (MAP) appraisal report to determine market rents in lieu of submitting a separate rent comparability study (RCS).
- Immediate implementation of "after rehab" HAP rents when refinancing through a program that requires payment of full debt service immediately post-closing (e.g., the FHA Sec. 223(f) refinance program).
- Disregard of lower Low-Interest Housing Tax Credit (LIHTC)/use restriction cap on market rents in the RCS for Chapter 15 HAP renewals.
- Clarification of when HUD needs to independently confirm market rents.

MAP APPRAISAL REPORTS

With the new Sec. 8 Renewal Policy Guidebook, HUD will now allow the use of a HUD lender-ordered MAP appraisal report in lieu of a RCS if five total conditions are satisfied:

1. The MAP appraisal report is ordered and underwritten by the HUD lender.

2. The appraiser utilizes the form HUD-92273-S8.

3. Appeals are made directly by the HUD lender to regional centers/satellite offices.

4. HUD processing staff will utilize the form HUD-92273-S8 and MAP appraisal report as a full substitute for the RCS to set Sec. 8 rents.

5. MAP appraisers and HUD-review appraisers follow the most current uniform standards of professional appraisal practice (USPAP).

These conditions are fairly straightforward and nearly all MAP appraisal reports would qualify with minor alterations. Prior to the new guidebook's issuance, HUD had to waive the requirement of a RCS even in instances where a MAP appraisal was ordered in conjunction with a firm application for HUD mortgage insurance. This substitution should decrease overall transaction costs for affordable housing owners who wish to renew existing Sec. 8 HAP contracts and simultaneously refinance the property.

AFTER REHAB RENTS

Another significant change in the updated guidebook expressly permits the use of "after rehab" rents in instances where full debt service payments are owed after a refinance closes. This guidance is especially noteworthy for the FHA Section 223(f) LIHTC Pilot Program and the Fannie Mae Multifamily Affordable Housing (MAH) Moderate Rehabilitation Program. HUD guidance on the LIHTC Pilot Program, for instance, requires termination of an existing HAP contract and execution of a new 20-year contract. However, with either mortgage program, the loan is considered permanent financing with full principal and interest due after the initial loan closing. Because of this, an issue of timing develops whereby underwriting to the "after rehab" Sec. 8 rents to maximize loan proceeds fails to match the loan amortization. Prior to the new guidebook, use of "after rehab" rents upon closing was only permitted through a waiver request. Under the new guidance, the project owner has to agree to sign form "HUD-93182 Addendum to Renewal Contract under Option One or Option Two for Capital Repairs and/or Acquisition-Post-Rehabilitation Rents at Closing." This HUD form includes many boilerplate provisions (e.g., completing capital repairs

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To review the Section 8 Renewal Policy Guidebook, visit http://portal.hud.gov/hudportal/documents/huddoc?id=Sec.8_Renewal_Guide.pdf within one year) that should be weighed against the work scope and estimated timeline for a project.

In addition, for-profit project owners may renew at "after rehab" rent levels under option one or option two. This also previously required a waiver from HUD. Thus, ultimately with this guidance, both for-profit and nonprofit affordable housing owners can better sync Sec. 8 rent renewals, demanding external LIHTC deadlines, multiple financing sources, including LIHTCs, to rehabilitate projects by ensuring that rent levels are equivalent to those being achieved in the open market.

HUD has also clarified when it needs to confirm the concluded market rents. If a project submits an option one, option two, or chapter 15 HAP renewal and the market rents in the RCS exceed 140 percent median gross rent (as reported in the 2007-2011 American Community Survey), then HUD will commission a separate RCS. The RCS commissioned by HUD must conclude to market rents within 5 percent of requested rents or HUD will set the rents based upon their RCS with no appeal process available.

The recent updates to the Sec. 8 Renewal Policy Guidebook serve as a clarification and enhancement of the guide that was released in 2012. Much of the guidance released this August serves to better align the Sec. 8 HAP renewal process with the recapitalization of affordable housing. For example, the streamlined ability to renew HAP rents at "after rehab" levels before the rehab commences (for for-profit and nonprofit project owners alike) is an important step to ensure that efficient recapitalization programs like the FHA Section 223(f) LIHTC Pilot Program and the Fannie Mae MAH Moderate Rehabilitation Program can be fully leveraged to preserve Sec. 8 housing. Additionally, the lender-ordered appraisal for a HUD refinance can be used in place of a RCS. This should lower transaction costs for HUD borrowers and create consistency between HUD loan underwriting and HAP contract renewal submissions. While project owners should be mindful of the changes and how they may impact Sec. 8 renewals for specific properties, the new guidance can also be a helpful tool to better navigating the HAP renewal process in conjunction with a rehabilitation or refinancing of an affordable property. **NU**

THE RECENT UPDATES to the Sec. 8 Renewal Policy Guidebook serve as a clarification and enhancement of the guide that was released in 2012.

and more efficient HUD/Fannie Mae permanent financing vehicles. This accommodation from HUD should only accelerate the rehabilitation of the country's existing affordable housing stock and align participant interest in creating better housing for residents.

OTHER UPDATES

Chapter 15 of the Sec. 8 Renewal Guidebook permits Sec. 8 renewal under option one (mark-up-to-market) or option two (operating cost adjustment factor (OCAF) /budget-based adjustments). In these instances, HUD will no longer adjust comparable market rents downward to account for income or rental restrictions. This instruction should allow affordable housing owners to fully leverage

Brain Graney is an assistant vice president with Lancaster Pollard in Columbus. He may be reached at bgraney@lancasterpollard.com.

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QUERIES: Letters to the Editor and other queries should be sent to Jennifer Jones, NAHMA manager of communications and PR, jjones@nahma.org or to the address above.

The Challenge of 'Specialization' in Monitoring

BY BRIAN CARNAHAN

A hypothetical discussion in Charles Murray's latest book, *By the People*, caught my attention, summing up an opinion I have held for many years. Murray has a fictional factory compliance manager testify in a legal proceeding where many inspectors have limited knowledge of the rules, and thus have favorite violations they rely upon, in other words, they "specialize."

During my time as a compliance manager, I often observed this tendency on the part of my staff and other inspectors. I often knew that someone was likely to find certain violations. For example, a person might cite housekeeping frequently or might focus on a particular form.

I often attributed it to a few factors, including as Murray's fictional manager indicates, many compliance inspectors have a limited knowledge of the rules.

We live in a complicated world overall. The complexity of affordable housing projects makes it more likely that a compliance inspector will "specialize." What is understood is monitored. Thus, in affordable housing, housekeeping can be a frequent favorite, as most of us understand when a resident is not doing his best to maintain his unit.

Additionally, personal experience is relevant. Those who have worked in the industry they are inspecting often rely on their own experiences, which may have involved issues of a certain type.

Also, the focus of the inspector's manager may be a factor. The inspector may be operating under the concept of "what gets measured gets done." The smart inspector knows what his supervisor cares about most. Faulty prioritization may be part of the problem as well. In assessing risks, is the approach used by the inspecting organization not properly categorizing violations?

NO MATTER THE CAUSE, SPECIALIZATION can be a frustration. It can lead to more violations and extra work, while other critical issues go unaddressed.

Moreover, specialization could be based on observed performance or the demands of the public. It is possible that the specialization of the inspector is based on the frequency of errors—possibly a pattern across inspections has been noted—or an incident that shocked the public or others.

No matter the cause, specialization can be a frustration. It can lead to more violations and extra work, while other critical issues go unaddressed. An owner or manager can take a few steps to prepare for and address the effects of specialization when it occurs. Some steps include:

- Ensure your process is not leaving a "hole," i.e., are you making the same mistakes again and again.
- Know not just the rules, but the inspectors as well. "Scout" the inspectors and be prepared for what they normally cite.
- Document when violations tend to be common for an inspector. You and your staff know who cites what issues most frequently, so use this to your advantage.
- Know the rules, but recognize you may have the same biases and favorite issues as well. Frankly, it is a human tendency. We set up policies, systems, and checks and balances in an effort to control for human weaknesses and tendencies, but that does not always happen. It is a routinely offered suggestion: training.
- Complain, but explain. When complaining about issues being cited too frequently or inappropriately, have the rules on your side, as well as an explanation as to why the citations are a problem.
- Develop relationships with the leadership of the monitoring organization that can help you resolve issues when monitor may be over-specializing.
- Acknowledge the reality. While it helps to "fight," sometimes one must be prepared and simply focus on what the inspector focuses upon.

It is a reality of human nature that we get comfortable doing certain tasks or holding certain opinions. Nonetheless, this reality of specialization can be a problem if resources end up being directed at addressing the wrong or same issues again and again. Use specialization as an opportunity to ensure your compliance strategy is effective. **NU**

Brian Carnahan is formerly the director of the Ohio Housing Finance Agency's Office of Program Compliance, where he oversaw compliance monitoring of tax credit, HOME and Section 8 communities. He is currently executive director of the State of Ohio Counselor, Social Worker, and Marriage and Family Therapist Board, and a member of the Board of Homes on the Hill, a Community Development Corporation, working in neighborhoods in Columbus and Franklin County, Ohio. He can be reached at bcarnahan73@gmail.com.

Starting the New Year Off Right

BY JENNIFER JONES

For some multifamily residential properties, the start of a new year also means newly elected or appointed members to the governing board taking their place at the dais for the first time. The relationship between the board and the managing agent is important to keeping the business and functionality of the property running smoothly.

"The boards operate autonomously. They are responsible for making sure the properties keep functioning," Mike Liebe, regional vice president of property operations, Mercy Housing Management Group, said. The managing agents, by contrast, are responsible for daily operations, with a focus to keep the board on track and provide the information they need in making their decisions. "We are guests at their meeting," Liebe said.

Communication between the manager and the board, especially new members, is key. Also, education plays a big role in keeping the momentum of the board flowing when it experiences turnover.

Liebe suggested that management provide a board development retreat or orientation, which could be in the form of an extended meeting, to help bring new board members up to speed as far as ongoing projects, board priorities and the separate roles of the board and management company.

"In many cases, the board members are volunteers. It is helpful to them to get a little grounding," Liebe said. "We provide the property management perspective."

For example, Liebe said one of their managed properties is experiencing significant plumbing issues. The board is committed to addressing the problem, which is a long-term project. As managers, Mercy might provide a brief history of the project, the anticipated timetable and the estimated costs in a presentation to any new board members. "A new board member might not realize how large a project it is or that it is a big ticket item," he said.

Maintaining the balance of power between the board and management company can be a delicate prospect. The board is ultimately responsible for all decisions, but the management company or agent has to make sure those decisions are being made in a timely, thoughtful manner. Liebe said there are times when board members can get sidetracked and it is up to the managers to bring the focus back to the issue at hand. In those cases, the operational report presented by the manager at the board meeting can be a useful tool.

"We can highlight what should be at the forefront," he said. "We can provide the financial reports, the needs assessment and provide analysis, but the board has to make the decision," he said. "A board might want to buy new beach umbrellas and picnic tables, which is great. But, we have to let them know the boiler is also 15 years old and has small leaks."

> **"RE-ENFORCING ROLES, setting boundaries and effective communication—those are the keys to a successful board/manager relationship."**

Managers have to be skilled in listening and observing the dynamics of the board in order to effectively communicate in a professional and tactful manner. A skill that is equally helpful among the board members themselves—knowing the individual members' personalities can help determine which communication styles work best.

"Re-enforcing roles, setting boundaries and effective communication—those are the keys to a successful board/manager relationship," Liebe said. NU

Jennifer Jones is manager of communications and public relations for NAHMA.

Welcome New Certificants!

NAHP

- Fern Mullen
  Corcoran Management Company
  Braintree, Mass.

NAHP Executive

- Jason Acosta
  Foundation for Affordable Housing Inc.
  Laguna Beach, Calif.
- Kathleen Churchill
  YMCA of the North Shore
  Beverly, Mass.
- Lorie Marchant
  WinnResidential
  Fritzgerald, Ga.
- Mayra Orellana
  AHC Management LLC
  Arlington, Va.
- Gene Zhitomirsky
  Trinity Management Company
  Boston, Mass.

NAHMS

- Henry Araujo
  First Realty Management Corp.
  Boston, Mass.
- Gregory Burroughs
  Community Realty Management Inc.
  Philadelphia, Penn.
- Pedro Clarke
  Community Realty Management
  Philadelphia, Penn.

NAHMT

- Manuel Bobe
  Community Realty Management Inc.
  Philadelphia, Penn.
- Duane Hall
  ALCO Management Inc.
  Harrodsburg, Ky.
- Luis Mateo
  Community Realty Management Inc.
  Philadelphia, Penn.
- Joseph Moreid
  First Realty Management Corp.
  Boston, Mass.
- Jason Reavis
  Community Realty Management Inc.
  Philadelphia, Penn.
- Jose Rivera
  Community Realty Management Inc.
  Philadelphia, Penn.
- Fito Rivera
  First Realty Management Corp.
  Boston, Mass.

Methodically Approaching Affordable Housing Challenges

NAME: Dino Moncecchi, NAHP-e, Real Estate Broker

MANAGEMENT COMPANY: Spartan Management LLC

POSITION: Managing Member

So, how does a man born in Massachusetts and who was a Department of Pharmacy postdoctoral fellow at the University of Cincinnati end up working in Wyoming's affordable housing industry for the last 22 years?

"I had a chance to move to Wyoming to work in the family business," Dino Moncecchi said. "I moved to Wyoming in the '70s to work in the oil and gas industry and fell in love with the place. So, when I had the opportunity to come back in 1993, I went. I just enjoy living in this part of the country."

Now, he is the managing member of Spartan Management LLC in Cheyenne, a business started by his father-in-law. The company provides on-site management and maintenance personnel to five subsidized properties and four conventional properties.

And surprisingly, his doctorate comes in handy. "The scientific method can be applied to a lot of businesses," Moncecchi said. "It is a good model for making decisions."

The multifamily property management business in the "Cowboy State" can be challenging. Wyoming is the ninth largest state, but only has a population of just over 560,000. Moncecchi said, for much of the state, the local economy is tied to the minerals production industry and agricultural. The population and vacancy rates of properties in communities tied to the mineral industry can fluctuate dramatically with the volatile demand of that industry. Those communities tied to agriculture have the problem of a narrow margin of income over expenses because of lower average incomes, which dictate lower rents. "The communities are small. We manage properties in communities as small as 1,500 people. You may have to get a plumber from 50 miles away," Moncecchi said.

He said it is important to preserve the affordable housing available in these communities because the availability of housing also impacts other services such as schools.

"In one community, Glenrock, there is a population of about 2,500 people and we house 5-10 percent of the population of the town at the Trails Apartments which has 60 units," Moncecchi said. If that property was not refinanced in the Mark-to-Market program and had to shut down, the school would have also faced a crisis. He said, not only would the tax base have dried up, the students, and their funding allocation, would have disappeared as the property's residents found housing in other communities.

Moncecchi, his wife and five children take advantage of the great open spaces backcountry skiing, mountain biking and riding horses. **NU**

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

CUT FROM ABOVE

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National Affordable Housing Management Association
400 North Columbus Street, Suite 203
Alexandria, VA 22314
www.nahma.org

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