

February 14, 2012

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

RE: Docket No. FR-5563-P-01

HOME Investment Partnerships Program: Improving Performance and Accountability; and Updating Property Standards; Proposed Rule

To Whom It May Concern:

Thank you for the opportunity to comment on the Department of Housing and Urban Development's (HUD) proposed rule "HOME Investment Partnerships Program: Improving Performance and Accountability; and Updating Property Standards" which was published in the *Federal Register* on December 16, 2011. The proposed rule would amend the HOME regulations to clarify existing requirements, enhance program accountability, and require the timely production of housing assisted with program funds. The National Affordable Housing Management Association (NAHMA) supports the accountability and oversight goals of the proposed rule; however, we would request that HUD clarify some of the proposed regulatory language in order to prevent negative unintended consequences.

NAHMA's members are property owners and managers, industry stakeholders, and providers of goods and services to the affordable housing industry. Our mission is to promote development and preservation of quality affordable multifamily housing by advancing legislative and regulatory policy, and preparing affordable housing professionals to succeed in evolving economic and political environments.

NAHMA strongly supports the HOME Investments Partnership program. The program is a vital source of gap financing, which allows affordable properties to leverage additional capital, like the Low-Income Housing Tax Credit, to develop new or rehabilitate existing affordable housing for low-income households. In fact, many NAHMA members use funding from the HOME program in their affordable property rehabilitations.

We believe the proposed rule "HOME Investment Partnerships Program: Improving Performance and Accountability; and Updating Property Standards" is a step in the right direction towards increasing the accountability and improving the oversight of participating jurisdictions and HOME funds recipients. The proposed rule provides HUD with the additional tools it needs to ensure affordable housing projects are completed in a timely manner and, in the case of non-compliance, funding can be recaptured and used elsewhere.

NAHMA is specifically interested in the proposed rule's regulatory changes that would affect the management and operation of affordable multifamily housing properties. We are intrigued by the change in the definition of "low-income families" in Section 92.2. The proposed rule would exclude students enrolled in an institute of higher education from qualifying as a "low-income" or "very low-income" family if the individual:

- Is under 24 years of age;
- Is not a military veteran;
- Is unmarried;
- Does not have a dependent child; and
- Is not otherwise individually low-income or does not have parents who are low-income.

This definition change would help bring the HOME program's eligibility requirements in line with the statutory requirements of the Section 8 program regarding student occupancy. We believe the change is also in line with the White House Rental Policy Working Group's goal to streamline income definitions across federally subsidized housing programs. NAHMA strongly supports a single student occupancy rule across all Federal housing assistance programs. This requirement is a step in the right direction towards streamlining tenant income and eligibility requirements across programs. We urge HUD to maintain this requirement in the final HOME program rule.

Nevertheless, we do have some concerns about the proposed rule's regulatory language for rehabilitation standards in Section 92.251(b)(2). The first sentence of this provision states, "Participating jurisdiction[s] must establish rehabilitation standards for all HOME-assisted housing rehabilitation activities." We recognize that this language is intentionally broad to ensure that participating jurisdictions have the necessary flexibility to incorporate state and local building codes into their rehabilitation standards. However, NAHMA worries that this language may result in a large variation of rehabilitation standards between participating jurisdictions. Furthermore, we are unsure if all of the participating jurisdictions have the necessary resources—including staff and knowledge of Federal housing programs and local codes—to draft realistic rehabilitation standards. We are particularly concerned that the resulting standards could conflict with other Federal housing subsidy requirements, making it difficult for mixed-subsidy properties to use HOME grants in their rehabilitation efforts. NAHMA would recommend that HUD take a leadership roll in drafting a model or recommending a minimum set of standards in order to avoid conflicting requirements with other Federal, state, and local programs.

NAHMA is also concerned by the proposed rule's requirement in Section 92.251(b)(2) that, upon project completion, a project assisted with HOME funds must "have no observed deficiencies." Based on the rule's proposed standards setting mechanism, observed deficiencies could vary widely between participating jurisdictions, depending on the rehabilitation standards set and the inspection protocol used by the jurisdiction. As a result, NAHMA suggests that the language be reworded to state that, upon project completion, a property assisted with HOME funds "will have no major code violations." We believe this language will provide consistent and fair housing quality standards for properties assisted with HOME funds, while allowing participating jurisdictions the flexibility to meet state and local building codes.

Finally, NAHMA believes that the major system requirements in Section 92.251(b)(2)(iii) could result in superfluous costs to properties during rehabilitation. The proposed standard would require all major systems to have a minimum of 15 years of remaining useful life in multifamily rental housing projects. However, NAHMA members are concerned that these standards could force owners to replace a number of the regulation-specified major systems—particularly HVACs—during rehabilitation even if the systems still have a significant amount of useful life left. This requirement would be particularly difficult for smaller properties to meet because of the large, upfront cost associated with major system replacements, which may exceed the allocated HOME grant. NAHMA feels that the decision to replace a major system during rehabilitation should not be dependent on an arbitrary length of time set in a regulation. Rather, we would suggest that any major system replacement be dependent on the remaining useful life of the system as determined by a capital needs assessment and/or any relevant long-term capital replacement plans.

Thank you in advance for your consideration of our comments. Please feel free to contact me at 703-683-8630 for more information.

Sincerely,



Kristina Cook, CAE
Executive Director