



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

SEP 05 2012

Ms. Denise B. Muha
Executive Director
National Leased Housing Association
1900 L Street, NW
Washington, DC 20036

Dear Ms. Muha:

On behalf of Secretary Donovan, thank you for your letter of June 22, 2012, regarding the National Leased Housing Association and the other industry signatories to the letter concerning recent changes to Chapter Nine of the Section 8 Renewal Policy Guidebook ("Guidebook"), which concerns the method for determining comparable market rents under the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended ("MAHRA") 42 U.S.C. 1437f note. The Office of Multifamily Housing Programs issued these changes on May 18, 2012.

The Department has carefully reviewed the concerns and has given thorough consideration to the views expressed in the letter. Based in part on these views, the Department is considering revisions to Sections 9-23, 9-24, and 9-25 of the Guidebook, which we believe should alleviate many of the concerns expressed in the letter. In the interim, we will shortly issue guidance to the field suspending the requirements in existing Sections 9-23, 9-24 and 9-25 until the revisions become effective.

In addition, before implementing the revisions that are under consideration, we will make these revisions available for public review and comment by publication in the Federal Register in accordance with the Paperwork Reduction Act as applicable. The Office of Multifamily Housing Programs will consider all public comments received before any revisions are finalized.

However, please be advised that the Department strongly believes that MAHRA does provide the flexibility for the Secretary to implement the changes to the methodology for determining comparable market rents. Section 524(a)(5) of MAHRA, captioned "Comparable Market Rents and Comparison with Fair Market Rents," requires the Secretary in the broadest, most unqualified of terms, to "prescribe the method for determining comparable market rent by comparison with such rents charged for comparable properties (as such term is defined in Section 512) . . .". The letter states on page 1 that "there is no appropriate benchmark" for gauging comparable market rent and that "[t]he market is the market" (emphasis added). We disagree with the premise that broad language of Section 524(a)(5) does not permit a benchmark to be used in the methodology for determining comparable market rents.

Based on the plain language of Section 524(a)(5), comparable market rent is determined by the *method* that the Secretary prescribes. We agree, however, that the method that the Secretary chooses must be reasonable. As noted in the letter, the method that has been in place

in Chapter Nine of the Guidebook since its original publication in 2001, has generally been considered reasonable by Owners of Section 8 projects and by appraisers alike. However, executive agencies are certainly permitted to revise an existing administrative policy on how a methodology is implemented. Please be assured it is our intent that the revisions to Section 9-23, 9-24, and 9-25, will be published for public comment in the near future and will comport with applicable procedural and substantive standards.

Again, thank you for your letter. We look forward to receiving any comments that the National Leased Housing Association and other industry members may wish to submit to the upcoming revisions to Sections 9-23, 9-24, and 9-25 of the Guidebook.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marie D. Head".

Marie D. Head

Deputy Assistant Secretary for
Multifamily Housing Programs