

HUD/Performance Based Contract Administrator Call
October 27, 2004
2 PM – 3:30 PM

1. **New Business**

- **Office of Affordable Housing Preservation (OAHP)**

Ted Toon, Associate Deputy Assistant Secretary of OAHP, addressed the call and explained that the former Office of Multifamily Housing Assistance Restructuring (OMHAR) has been reborn as OAHP within the Office of Housing. The legislation that created mark-to-market sunsetted OMHAR September 30, 2004, but the authority for the program continues through September 2006, the last date projects can be referred into the program. Processing of referred projects will continue until at least 2007.

As part of the restructuring, the San Francisco office was closed, and the New York office now oversees rehab only. The DC and Chicago offices remain full-service offices.

OAHP staff can be reached at 202-708-0614, ext. 8386

2. **Performance Based Contract Administration Updates**

Small Portfolio Performance Consideration

- Because some PBCA portfolios are relatively small, there is a disproportionate effect on their performance ratings if a portion of a task is not performed. Bill Ward has proposed the formation of a task force of small PBCAs to develop ideas on how HUD should address this problem. If you are interested in joining the task force, Bill can be contacted at Bward@ihfa.org.

NAHMA Meeting—Owner Feedback

Deborah Lear attended the NAHMA conference, and received feedback from owners about the PBCA program. The rest of the call was devoted to discussing some of the issues raised during the conference. For the sake of time during the call the issues raised and remaining topics are noted below. In moving toward our objective of consistency and uniformity, the information provided below should be shared with your staff.

- **Eviction pre-review** There are PBCAs requiring agents to submit their evictions for review prior to proceeding to court. These are "cause" evictions, rather than nonpayment. Deborah Lear said that this requirement is not within the PBCA's purview and the PBCA is prohibited from enforcing this requirement. This

information should be conveyed to staff that interacts with owners as well that this PBCA requirement is not acceptable.

- Management review timing – PBCAs should respect and consider to the extent possible that properties are very busy on the first and last week of the month. To the extent possible owners would like consideration of the workload during these periods since it puts the on-site staff in a real bind since the collection of rent is of paramount importance and it is an opportune face to face time with their residents.
- Manage staff turnover Some owners complained they feel like they are frequently dealing with new PBCA staff that is unfamiliar with their property. Deborah asked how PBCAs train new staff and how much turnover PBCAs have. Dorli Bokel said it might be not be turnover, but a deliberate policy of the PBCAs that owners are noticing. Dorli said they periodically move their portfolio among the staff to prevent the staff from becoming too comfortable with an owner.
- Sharing of Proprietary Information A PBCA has made a practice of taking existing policy/procedure manuals from owners during an MOR and sharing it with other owners without consent.
- Systemic File Audit PBCA is requiring a 100% tenant file review audit on file reviews that are not found to be perfect. 100% tenant file review audit should only be required when there is a systemic problem rather than an anomaly as noted in the ACC.
- Other Staffing Turnover Concerns Issues are related to numerous areas of concern regarding the training and education of new staff. Areas of concern are noted as follows:
 - ❖ The lack of understanding of the various programs that the PBCA needs to be cognizant of including the variances between program types (236 versus 202, 202 versus 515, etc.).
 - ❖ Instructions to the agents/owners on how to deal with voucher issues are frequently changing and often contradictory, whenever answers can be obtained and impact the management agent's ability to successfully submit information.
 - ❖ Properties in the portfolio are assigned to geographic regions however; there are agents/ owners who have properties in separate regions. There are many instances where the compliance requirements of one area vary or contradict another. In other words, no consistent guidance. As an example, some properties are being required to maintain a signed acknowledgement by residents that they have received a copy of the Resident Selection Plan and others not being required too.
 - ❖ Each time a new reviewer is assigned to a property, changes are required to suit that particular individuals preference. There have been reviewers

from the same company yet have drastic differences in their observations and findings.

- ❖ Inconsistent policy of PBCA regarding provision of the Tenant Rights and Rent Determination Fact Sheet. PBCA staff will accept signed receipts from resident attesting to receipt while other staff of this PBCA require copy of the forms in each tenant file irrelevant of a signed confirmation requirement.
- MORs on properties with several subsidy contracts Some PBCAs have been told to, and are conducting, more than one MOR review of a property. Deborah said only one MOR should be conducted even if there is more than one subsidy contract on the property. An FAQ will be issued clarifying that the PBCA will conduct one MOR per property on an annual basis.
- MOR quality control reviews Deborah asked how the reviews are being conducted, and do PBCAs try to minimize the disruption for the owners. Some PBCAs have the quality control officer sit in during the MOR, while others have the quality control officer follow up several months later. HUD prefers the first option since it causes less disruption for the owners.
- AFHMP outreach The review of the AFHMP is a function of the HUD field office, not the PBCA. The plan must address groups least likely to apply. If the AFHMP in place addresses these target groups and the owner is or has advertised as stated, the owner is in compliance. There are owners who have complied and have an extremely long waiting list that have since been closed. Nonetheless a PBCA is requiring owners to reopen a closed waiting list since the applicants on the list did not represent the target groups on the AFHMP. Reference page 4-32 of HUD Handbook 4350.3 REV-1, paragraph 4-16 B(1) and (2) regarding opening and closing of waiting lists. This PBCA practice should be discontinued.
- Waiting list management Some owners complained about requirements placed upon them by the PBCA beyond the regulations. While the waiting list must indicate the date and time an application was submitted, it is not a requirement this be done by a time/date machine, which apparently a PBCA wrote up as the corrective action. As long as the information is documented, the requirement is satisfied as noted in the 4350.3 REV-1 page 4-31, paragraph 4-16 A (2.)
- Open communications Owners, like PBCAs have the right to contact HUD in the event issues cannot be resolved at the PBCA level. Some owners have felt discouraged by their PBCA to contact HUD if they have an issue with the PBCA who has not provided an open line of communication with which to discuss ongoing issues.
- ❖ New model lease A PBCA has cited the owner on several MORs that the incorrect HUD approved lease was used. The reviewer stated that the owner

could not use the HUD one-page addendum to the lease (Appendix 19a), with the One Strike language, for tenants who were in place as of the effective date of the new lease. They required the owner to issue an entirely new lease to those existing residents. HUD instructions initially published when the new lease was issued, directed the owner to require tenants on a year-to-year lease to sign the new model lease no later than the next recertification and for tenants on a month-to-month lease, the owner may execute a lease addendum.

- ❖ *Information included on the waiting list* PBCA required the owner to include the annual incomes of applicants on the waiting list. This is an acceptable requirement based on the 4350.3 REV-1, paragraph 4-16 (D)(3)(c).

3. **Scope Of Review of Tenant Files** There is inconsistency among CAOMs as to how far back a specific tenant file review should go. Deborah suggested the reviews should look at the initial documents and the current ones unless there is a discrepancy that affects the HAP. The PBCAs voiced support for the proposal. An FAQ will be developed and posted on the contract administration website, FAQ section, as an interim measure providing guidance until a final policy is issued. This policy recommendation has been forwarded to the Housing Assistance and Grants Administration for consideration.

Additionally, in follow up to the call a recommendation was also submitted for consideration requesting the addition of the following to the 4350.3, chapter 7, figure 7-2, page 7-7 step 8:

“Only after the tenant and owner representative sign the HUD-50059 facsimile, transmit electronic file to the Contract Administrator or HUD.”

Next call will take place December 8, 2004 and will include CAOMs.

Please email all topic suggestions to Mike Cohen at mcohen@ncsha.org.