



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

OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

MEMORANDUM FOR: All Staff, Office of Multifamily Housing Assistance
Restructuring

All Participating Administrative Entities

FROM: S. Paige Warren, Acting Deputy Director for Production

SUBJECT: OMHAR ENVIRONMENTAL GUIDANCE

The attached document clarifies OMHAR policy and procedures in regards to Environmental issues typically encountered during development of a Restructuring Plan. This consolidates and restates OMHAR policy in many areas, and incorporates significant changes in others, specifically Lead Based Paint requirements, and dealing with possible historic properties. These changes have been developed over the past several weeks in coordination with the Real Estate Assessment Center (REAC) and the Office of Multifamily Housing.

Most critically, there is currently a small window that affects how to deal with Lead Based Paint issues. Thus we have developed the following Implementation Plan:

All OMHAR properties are subject to HUD's Lead Based Paint Requirements and Regulations. As such, all OMHAR owners of properties built before 1960 (except 100% elderly or 100% zero bedroom units) were required to have a Lead Based Paint Assessment completed by November 30, 2001. However, if they signed up for a free Assessment through REAC, the deadline for completion of the Assessment was extended. REAC will still accept properties for inspection, but owners have only until **May 15, 2002** to sign up for the free Assessment. See Notice OHHLHC-02-02, dated April 17, 2002. [Please be aware that on September 15, 2003 the Assessment Requirement will be extended to properties built from 1960 to 1978.]

Once signed up, it will take REAC weeks or months to complete the Assessment. The Assessment **MUST** be completed prior to refinancing under 221(d)4 and 223(f).

For restructurings using 223(a)(7) refinancing the Assessment need not be completed as a condition of the refinancing; however, OMHAR's policy is that the owner must be signed up with REAC for an inspection prior to Restructuring Commitment issuance. If the

owner misses the window to sign up for REAC's free inspection, the owner must engage a certified lead-based paint inspector, and **complete** the inspection prior to Restructuring Commitment issuance. The cost of an inspection other than the REAC inspection (which has been available to owners since September 11, 2000) will have to be borne by the Replacement Reserve if approved by the local HUD Office, or out of the owner's pocket if HUD will not approve. OMHAR will not request a waiver for continuation of above market rents to complete a non-REAC inspection.

For properties in which a Restructuring Commitment has already been signed, we should move forward and close the deal, but the Restructuring Commitment must be amended to clarify the owner's requirement to follow the Department's Lead Based Paint requirements. This also should be part of the Transmittal Memo to Multifamily Housing.

In cases where a restructuring commitment has not been signed, we should move forward with developing the Plan, but must not issue a Restructuring Commitment until the owner has either (i) signed up for a REAC Sponsored Inspection, or (ii) engaged a certified lead-based paint inspector, and **completed** the inspection.

In developing a Plan prior to completion of an Assessment it is recommended that funds be added in Year 1 or 2 of the Physical Condition Assessment (PCA) analysis to provide some cushion for any possible interim controls. This should be supported by the PAE in the narrative.

While it is difficult to gauge the costs for interim controls, the PAE must exercise its best judgment, based on age of the property, PCA-noted and observed conditions at property, and other factors.

In developing a Plan where we have a completed Assessment, the costs associated with the Assessment-recommended actions should be made a condition of the firm commitment and funds must be included in the Rehabilitation escrow for such work. Note that there may be sources of funds available to owners in cases where the Assessment finds lead, and the costs of mitigating the lead paint are expensive.

Questions regarding the Implementation Plan or the Environment Guidance should be directed to the Relationship Manager and/or Norman R. Dailey, at 202-708-3856, x3786.

Attachment

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