

Sample

**Mark-to-Market Form 10.4(a)  
Notification to Owner of Market Rent Determination;  
Transmittal of Section 8 HAP Contract**

From: PAE

To: Owner

Transmission: Overnight Hard Copy

\_\_\_\_\_

(date)

Project Name: \_\_\_\_\_

FHA Number: \_\_\_\_\_

Section 8 HAP Contract Number: \_\_\_\_\_

REMS ID Number: \_\_\_\_\_

Dear Owner:

Approved Market Rents

1BR \$ \_\_\_\_\_

2BR \$ \_\_\_\_\_

3BR \$ \_\_\_\_\_

4BR \$ \_\_\_\_\_

[Insert other unit sizes if necessary]

Based upon your request under Housing Notice H 99-36 for processing of the subject transaction as a Lite (rent restructuring without debt restructuring), OAHP has approved the market rents provided above.

**WITH THIS NOTIFICATION, YOUR CURRENT SECTION 8 HAP CONTRACT EXPIRES AT THE END OF THE NEXT FULL MONTH (i.e., [Insert the date of the last day of the next full month] - this is the rent expiration date).**

You must execute and send the attached contract to the HUD Project Manager for receipt **on or before [insert the due date of 10 business days after the date of this letter]**, in order to continue receiving Section 8 rent subsidies. You also are required to submit to the HUD Project Manager a new rent schedule reflecting the approved rents and gross rent change certifications for tenants in the project. The effective date of the certifications is **[Insert the date of the last day of the next full month]**. Gross rent change certifications do NOT require recertification of tenant income or expenses and do not affect annual recertification schedules. Contact your HUD Project Manager for further information.

The execution of this contract will not interfere with your ability to appeal, or the timing of the review of your appeal, under the procedures noted below. HUD's execution of the contract is conditioned upon the availability of funds.

Please also provide a copy of the executed contract to us for tracking purposes.

**If the enclosed Section 8 HAP Contract is not executed and received by the date listed above, HUD will be unable to honor your requisitions and will have no choice but to assume that you intend to opt out of the Program. In order to begin procedures to provide Section 8 tenant-based assistance to the tenants of this property, you will be given a short-term renewal at market rents in order to comply with the one-year Notice requirements to tenants or to provide sufficient time to process tenant-based vouchers. If your decision is to opt out, we strongly urge you to contact your HUD Project Manager immediately to avoid contract expiration as of the rent expiration date listed above.**

The HUD Project Manager's address is:

Administrator

Address

Address

**APPEAL PROCESS:** You have 20 business days from the date of this notification to submit your appeal with clear and convincing supporting documentation to:

OAHP Preservation Office Director

Address

Address

Your appeal should specifically address all points of disagreement (e.g., comparables, adjustments, etc.) with the market rent conclusions listed above. The OAHP Preservation Office will review your appeal and respond within 30 calendar days. If the market rent determination is altered as a result, a new, revised Section 8 HAP Contract will be sent to you for execution. However, please note that delay in executing the **enclosed** Section 8 HAP Contract, may result in a period of time when the project is not covered by a Section 8 HAP Contract and during which no Section 8 subsidies will be provided. **Execution of this contract will not impact your appeal.**

If you have any questions about this transaction, or wish to receive the materials on which the above market rent determination is based, please do not hesitate to contact [insert PAE contact name] at [insert phone]. Upon request, the Physical Conditions Assessment, the Market Study/Limited Scope Appraisal, the draft income and expense spreadsheet, and our explanation for the selection of market rents can be provided to you by overnight mail.

Sincerely,

PAE

cc: HUD Project Manager  
Section 8 Contract Administrator  
OAHP Preservation Office

Enclosed: Section 8 HAP Contract (5 copies)  
Appeal Guidance

## **For owners who intend to appeal:**

The PAE has prepared substantial information to support their conclusions on rents, expenses and other aspects of the transaction. Your appeal should include specific information that either (1) refutes the information used by the PAE or (2) provides additional or alternative information that supports the change you desire.

### **Be specific**

Owners should identify the specific points being appealed. It is very difficult for OAHF to address issues identified only as “expenses are too low” or “rents are about \$30 less than they should be”. For example, identify the specific expense line items at issue.

### **Be precise**

Identify the real issue. If you believe that the real problem is that the expenses are not realistic, focus on the expenses. Don't focus attention on rents (“rents need to be a little higher to cover the expenses and make the property viable”) unless you believe that the market rent conclusion is inadequate. If market rents will not cover realistic expenses, there are usually options in M2M to address this circumstance where warranted. The important thing is getting the expenses “right”.

### **Provide specific support**

Provide specific and verifiable support for appeal issues. The easiest examples are increases in taxes or insurance where invoices and individual contacts for verification can be provided. Where more complex issues are involved, providing specific information from several sources is the most helpful. For example, where the market rent determination is at issue, provide specific rent comps, with addresses and distances from the subject, and as much detailed information as you can regarding the features of these comps. Another example might include expense information from an owners' association or other sources that the PAE and OAHF might not have been aware of.

### **Identify any deficiencies**

In addition to providing new information, owners should be familiar with the information that the PAEs have used to reach their conclusions on rents and expenses and should indicate where there are any deficiencies in that material. For example, the owner should identify any inadequate or inappropriate rent adjustments to the comps used by the PAE or its appraiser, or point out that a comp that was used is actually inappropriate because it is subsidized.

### **History alone is not adequate**

Indicating that a particular expense has always been high in this property is not, in and of itself, adequate evidence that it should continue to be high. One of the goals of the M2M program is to reduce high expenses due to inefficient management. For example, an identity of interest security entity may have been employed for years that charges higher than market fees for such services. In this case, the expense should be lowered to market. The expense should also be lowered if the cause of the high cost will be changed (for example, by switching to tenant-paid utilities). However, if the expense is high because of some feature that is particular to this

property (such as the need to spend additional money on flood insurance), that feature should be specifically identified and the expense supported.

**Up to date information**

It is most useful to all parties if the information being used is as current as possible. For example, information on recent utilities increases (letters from utility providers, newspaper articles, contacts at utility companies) should be provided as soon as possible.