NATIONAL
HOUSING
CONFERENCE

February 26, 2015

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

Docket No. FR-5654-P-01 Streamlining Management and Occupancy Reviews for Section 8 Housing Assistance Programs and Amending Vacancy Payments for Section 8 and Section 162 Housing Assistance Programs

The National Housing Conference (NHC) appreciates the opportunity to comment on Streamlining Management and Occupancy Reviews and Amending Vacancy Payments for Section 8 and Section 162 Housing Assistance Programs. NHC is concerned that the proposed changes to the vacancy payment standards pose an unnecessary financial risk to assisted properties. We recommend that HUD not implement this change and instead retain the existing 60-day vacancy payment standard upon which existing properties were underwritten. NHC supports HUD's suggested changes to the schedule for Management and Occupancy Reviews (MOR).

I. About the National Housing Conference

The National Housing Conference represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. As a nonpartisan, 501(c) 3 nonprofit, we are a research and education resource working to advance housing policy at all levels of government in order to improve housing outcomes for all in this country.

II. Vacancy Payments

The 60-day vacancy payment has been the historic standard, one that owners, lenders, and investors have relied on in their underwriting when creating affordable housing. HUD's proposal to reduce the vacancy payment going forward from contract renewal potentially disrupts existing loans and investments. It would put pressure on already stressed property finances without a material savings to the federal government. The proposed change would also discourage preservation of existing affordable housing.

Existing properties, loans, and investments rely on the 60-day vacancy payment. Section 8 properties were underwritten to a low vacancy loss level, a level lower than market-rate properties, based on the assumption that high demand for subsidized housing would ensure a waiting list of tenants to fill vacancies and that HUD would guarantee the 60-day vacancy payment in case the regulated process for leasing units imposed delays. Assisted properties generally assume a vacancy loss of three to five percent of gross revenue, while unassisted market rate properties assume five to seven percent, or even higher in weak rental markets. That significant difference can force difficult choices for assisted properties, such as delaying necessary repairs rather than miss a mortgage payment. Mortgage lenders, LIHTC investors, and property owners all rely on the vacancy payment as part of the overall property budget to keep affordable housing operating effectively to serve tenants.

Property budgets have little room to absorb additional costs. Most affordable housing programs require very tight margins, so that subsidy dollars go as far as possible to meet the demand for affordable housing. That means affordable properties have very little financial cushion in their monthly operating budgets to absorb unanticipated losses. For property-based Section 8 properties, the allowed return on equity is capped and generally very low, and most of the other revenue goes to pay operating expenses, mortgage payments, and set aside reserves for expected repairs. Unexpected losses therefore typically result in deferring repair dollars (usually called reserves for replacement), which can affect the long-term health of the property.

There is already an incentive to minimize vacancy. Under the existing standard, owners receive only 80 percent of the rent for the vacant unit. That alone provides a strong financial incentive to minimize delay in turnover. Indeed, most units do turn over in 30 days, and most properties have very high occupancy rates. It is telling that HUD's proposal anticipates savings from the stronger incentive but is unable to quantify that savings in the proposed rule. If the savings amount is as small as the $2 million HUD staff described to NHC and others in a recent meeting, this surely is not a powerful incentive.

Regulation of affordable housing is itself a source of delay in filling vacancies. In an ideal world, 30 days to resolve a vacancy would be sufficient. If a tenant moves out at the end of the month, the property manager needs at least a few days to turn the unit over and then lease to a new tenant with move-in by the beginning of the next month. This timeline works if every step goes smoothly. However, affordable housing properties face challenges unique to being regulated affordable housing. Some of these projects rely on public housing authorities to refer tenant. Others have long waiting lists, often with many stale entries because there are so many tenants in need and very few units available. Either way, additional time is needed for outreach, to confirm tenant eligibility, for the tenant to give move-out notice, and for the tenant to gather funds for the security deposit. If a unit needs significant repair or there is a required inspection, additional delays occur.

The reduced vacancy payment may discourage preservation of affordable properties. Because the vacancy standard change will take effect at renewal of the Section 8 contract, it will necessarily factor into an owner's decision about whether to renew or instead opt out. In effect, the proposed change will make preservation less financially attractive. The result will either be more opt-outs or additional preservation funds committed to the transaction to counterbalance the vacancy payment change. Either way, preservation becomes more difficult.

For all of these reasons, we recommend against changing the vacancy payment standard.

III. Management and Occupancy Reviews

The MOR change would require fewer reviews of high performing properties (every 36 months instead of every 12 months), based on a risk analysis. NHC supports this change and believes it will improve efficiency. NHC suggests that prior to implementation of this change, HUD require a baseline inspection on which to base the risk analysis.

IV. Conclusion

NHC appreciates the opportunity to comment on this proposed rule and commends HUD for its proactive efforts to strengthen and improve the Section 8 housing assistance programs. Please contact Rebekah King, Policy Associate (rking@nhc.org) with any questions.

Sincerely,

Chris Estes
President and CEO