


2003
NAHT Conference
Mark to Market
(M2M) Workshop

Presented by:
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OK, remind me. How does the HUD Section 8 Contract work?

- **The Section 8 Contract sets the rent for your apartment.**
 - **The HUD Section 8 Contract pays the difference between 30% of your income and the rent on your apartment.**
 - **The owner has to renew the Section 8 Contract when it expires – usually each year!**
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EXAMPLE:

- **Your Monthly Income: \$1,000**
- **X 30% = \$300**
- **HUD Contract Rent for your Apartment = \$700**
- **You pay \$300 to your owner as rent**
- **\$400 difference paid by HUD Section 8 Contract!**

Section 8 Contract Expirations and Owner Options



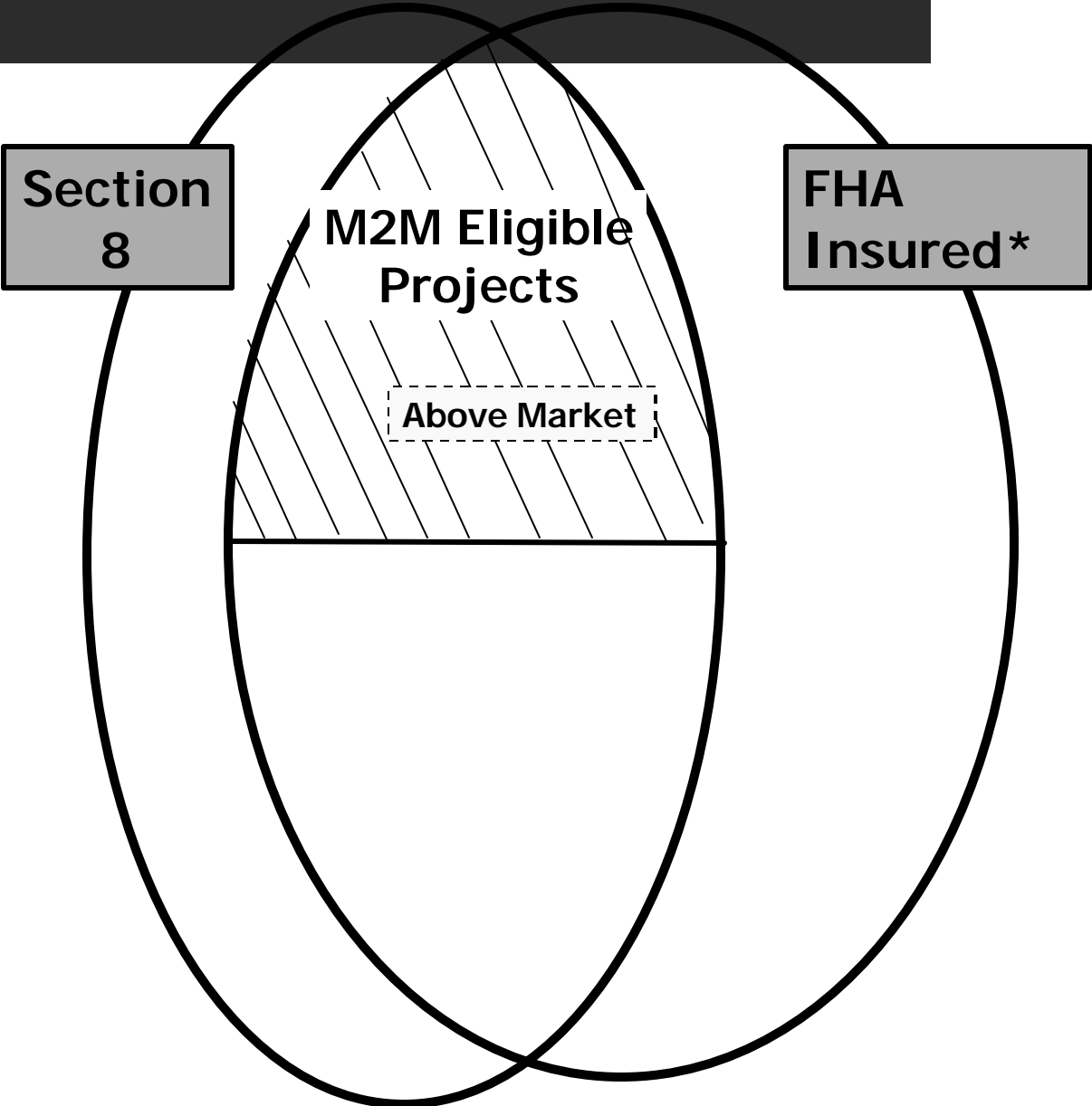
As the 20-year HUD Section 8 Contracts come for expiration, your building owner must make a choice that will directly impact your living situation

- 1. Mark up to Market**
- 2. Renew at Current Rents**
- 3. Refer to OMHAR and enter the Mark to market Process**
- 4. Renew at current rents**
(if exempt from M2M)
- 5. Opt-out of the program or sell the building**

Section 8 and M2M

- When congress created Section 8 twenty-five years ago, eligible properties were developed using above-market rents as a primary subsidy mechanism.
- Current above-market contracts, if renewed, would exceed HUD's total budget. So Congress mandated that as contracts expire, rents had to be reduced to market.
- Simply cutting the rents to market level, without a reduction in debt service, can seriously jeopardize the quality and future of the property.
- The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) created OMHAR).
- (OMHAR) The Office of Multifamily Housing Assistance Restructuring oversees and mandates the M2M program

Mark-to-Market Projects



To be M2M Eligible, a building must have:

- FHA insured property
- Section 8 Contract:
 - NC/SR
 - LMSA
 - mod. rehab.
 - etc.
- Rents above “market”

Who stays out of M2M?

- Non-FHA Insured
- Section 8 at below-market rents
- Section 515's
- HUD Section 202's, 811's
- State and Local financing on 1st mortgage
- Owners who are debarred, suspended or otherwise ineligible.

- The goal of the Mark-to-Market program is to:

- ✓ Keep your housing affordable with 20-year HAP contract with a 30-year affordability.
- ✓ Ensure good management
- ✓ Ensure good physical condition
- ✓ Make sure housing is financially sound
- ✓ Save HUD money!



Who are the Players in the Mark-to-Market (M2M) Program?

- 1. OMHAR** - Office of Multifamily Housing Assistance Restructuring (OMHAR) is the special HUD agency that administers the Mark-to-Market restructuring program and makes the final decision on rent reductions.
- 2. PAE** — The Participating Administrative Entity (PAE) is a consultant hired by OMHAR to evaluate your property and recommend to OMHAR whether or not the Section 8 Rents can be reduced and by how much.
- 3. OTAG** - An OTAG is an agency that receives funding from OMHAR through an Outreach and Technical Assistance Grant (OTAG) to provide training and assistance to residents in Mark-to-Market projects.

OMHAR & PAE's

- The Owner/s makes a decision and files 4-month notice of intent to restructure
- HUD office refers property to OMHAR and a PAE is assigned
- The PAE orders a third party rent comparability study and a Physical Condition Assessment. Draft studies are completed
- Based on the OMHAR and the PAE findings of the rent, at this point the property can still be found ineligible to enter M2M or continue
- In some cases the OTAG in your state has been informed of the owners decision and is already working at the complex

First Tenant Meeting

- The PAE will hold a first tenant consultation meeting to discuss the M2M program.
- A notice is sent and posted by the PAE and/or delivered by the management company at least 20 days before the meeting
- If there is not a tenant group in place, tenants should start a committee to oversee the process.
- Tenants need to make sure that the meeting accommodates them, a meeting location and takes into account any language needs etc.
- In order to fully affect the process, tenant should meet, conduct surveys and develop comments and assign presenter prior to the tenant meeting.
- Congress mandates that tenants should have access to relevant document to fully participate in the M2M process
- If proper notification was not provided, tenants have the right to ask for a new notice.
- Tenants have also the opportunity to submit comments after the first tenant meeting.

Tenant Comments

During the meeting the, PAE wants to hear about:

- Any critical repairs that should be taken care of immediately
- What repairs are urgently needed in the next 12 months
- What kind of services, facilities, modifications or improvements to the property are needed to:
 - Prevent crime or drugs
 - Help disabled or elderly residents!
 - Children and teenagers
- Whether there are serious problems with management at the property, such as:
 - Discrimination
 - Poor maintenance
 - Harassment
 - Children and teenagers
- Any serious problems with security or the need for security at the complex.
- Some PAE may ask the tenant about what type of subsidy they would like (Project-based vs. tenant-based)

The “Restructuring Plan”

- ❑ **The “Restructuring Plan will:**
 - ✓ **Tenant comments and how they were addressed**
 - ✓ **Include a 20-year plan for repairs to be completed by the owner.**
 - ✓ **Establish a new reduced operating budget for the project**
 - ✓ **Set new rents for the project**
 - ✓ **Determine whether or not Section 8 assistance is continued or whether another type of rental assistance is provided to tenants.**
 - ✓ **Reduce the costs of operating the project for the owner through:**
 - **Changes in the existing loans**
 - **Provide new loans**
 - **Favorable repayment terms**
 - ✓ **REQUIRE RENTS TO BE AFFORDABLE FOR 30 YEARS!**

Second Tenant's meeting

- The PAE will arrange a second tenant's meeting to inform and share the proposed restructuring plan with the tenants.
- The PAE will notify the tenants at least 10 days prior of the second tenants meeting.
- Tenants will have the opportunity to review the proposed plan and provide comments.
- Tenants should organize and work with the OTAG in order to make sure all of the tenant comments were addressed.
- If comments were not addressed, have tenants informed local officials, write directly to OMHAR and demand that issues be addressed.

OMHAR Review and Approval of the Plan

- **OMHAR makes the final Decision!!**
- OMHAR usually follows the PAE recommendations!
 - OMHAR must approve the new rents
 - Owner must accept new, lower rent
 - Critical repairs should be completed and other repairs start
 - Section 8 Contract is renewed
- **If owner does not accept new rents or the process is discontinued then:**
 - Section 8 Contract must be ended or the contract is renewed and put on a watch list
 - Property is converted to regular markets and eligible residents receive Section 8 Voucher
 - The building can be put up for sale

Outcomes of the M2M Process & Monitor Owner Compliance

- ❑ A 20-year contract will be signed
- ❑ Rents must remain affordable to low income residents for 30 years
- ❑ Critical and Necessary repairs will be performed using the year-by-year 20-year repair plan
- ❑ Plan for Competent and fair management will be required

M2M OMHAR-Lites

- Buildings will undergo an abbreviated review and approval process.
- Owners are not required to execute Use Agreements and are not subject to LIHTC affordable rent limitations.
- The process takes from 60 to 90 days from the date assigned to the PAE.

These properties must meet the following requirements:

- Adequate Debt Service Coverage after rents adjusted to market rents
- In good physical condition with sufficient Reserves for Replacement to maintain the property for the long term as well as make minimum short-term improvements.
- Evidence of competent management
- **There is no required tenant meeting**
- Some PAE's are holding tenant meetings at building they believe might be converted to a full M2M restructure
- The PAE is required to obtain tenant comments by mail, phone, surveys etc.
- REMEMBER!! Always participate