OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

November 22, 2002

MEMORANDUM FOR:     All Multifamily Hub Directors
All Multifamily Program Center Directors
All OMHAR Portfolio Directors
All OMHAR Participating Administrative Entities

FROM:                          Beverly J. Miller, Director, Office of Asset Management, HTG

Charles H. "Hank" Williams, Director, Office of Multifamily Housing
Assistance Restructuring, HY

SUBJECTS:                    TPAs Subsequent to Mark-to-Market Restructuring
Potential Eligibility of Nonprofit Purchasers for Modification or
Forgiveness or Assignment of the M2M Second and Third Mortgages

**Summary:** this memo outlines the protocol under which the Department will process Transfers of
Physical Assets (TPAs) with respect to properties whose mortgage debt was restructured under Mark-
to-Market (M2M). In general, Housing will process and approve these TPAs and OMHAR will
provide support in several areas. This memo also discusses how the Department will determine whether
nonprofit purchasers are eligible for modification or forgiveness or assignment of the M2M second and
third mortgages

**"Same Escrow" M2M-TPA Transactions Not Included:** Most transfers in M2M occur within the
same closing escrow as the M2M closing, with the transfer taking place either very shortly before or
very shortly after the M2M closing. These "same escrow" transactions will continue to be processed
by PAEs and approved by OMHAR as provided in the existing Memorandum of Understanding.
However, the TPA transaction may be processed and approved by the Hub or Program Center if it is
jointly determined by the Hub or Program Center, the PAE and OMHAR to be the best approach for a
specific property.

**Non-Profit Sale -- Three Year Window:** For M2M debt restructures that take place with the existing
owner, the standard M2M Restructuring Commitment provides that, if the owner sells to a qualified
nonprofit purchaser (as defined in the M2M Operating Procedure Guide, Appendix C) within three
years after the date of the Restructuring Commitment, the purchaser may qualify for modification or
forgiveness or assignment of the M2M second and third mortgages. Some post-M2M TPAs will
propose modification or forgiveness or assignment of these loans. The Restructuring Commitment

survives the M2M closing and thereby preserves this option for the three year window.  The language in the restructuring agreement requires the **TPA to be completed and closed prior** to the end of the three year period   If adequate time (generally 120 days should be sufficient to assure completion of review and closing of a TPA[1]) is not available, after a request is received, to complete **ALL** TPA requirements prior to the three year expiration, the Hub or Program Center will so inform the requester within 10 business days after receipt of the request.  If the three-year anniversary expires then the TPA to an NP will be sans debt modification, reduction or forgiveness.

**OMHAR Role:** during the remaining term of OMHAR's existence, OMHAR will provide the following assistance for post-M2M TPAs:

1. Confirm the "Qualified" Status of Nonprofit Purchasers.  OMHAR will determine whether the proposed purchaser is an "independent, tenant endorsed, community-based nonprofit purchaser" as defined in OPG Appendix C.
2. OMHAR will determine whether the proposed modification or forgiveness or assignment of the Secretary-Held M2M second and third mortgages is approvable under current M2M procedures.
3. OMHAR will authorize the modification, forgiveness or assignment of the debt.

**Hub / Program Center Roles:**  the Hub or Program Center with jurisdiction will process and approve the TPA under applicable guidance and will in all cases request assistance from the   appropriate OMHAR Portfolio Director.

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[1] The 120 days is a guide but will be affected, by staff workload at the time of the request.   For example, a request made 120 days in advance of a January or February closing may be considered insufficient time viewing staff availability and other end of year workload.