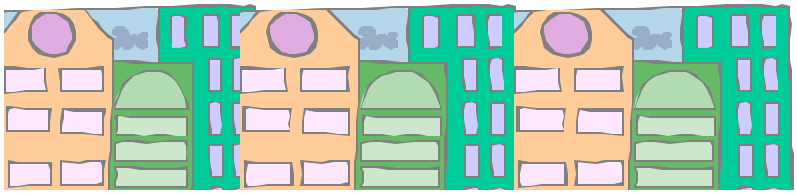
Office of Multifamily Housing Assistance Restructuring



Call Topic: **Transfer of Physical Assets Guidance**

Date of Presentation: **May 20th, 2002**

Questions and Answers

1. Required Form of Restructuring Commitment

Q. Is there a required form of Restructuring Commitment when a TPA is involved?

A. The form of Restructuring Commitment with TPA provisions is no longer being used. There is only one form of Restructuring Commitment for all M2M transactions, which in the case where a TPA is invloved, will be signed by the seller.

2. Assignment of Debt

Q. How will the assignment of debt option be implemented?

A. This has not yet been finalized.

3. Status of contract rents during sale negotiations

Q. Should a property's rents be reduced to market while the seller and purchaser are negotiating the sale terms?

A. The Relationship Manager will have to make a judgment call on this, after considering all relevant factors. It may not be appropriate to extend the property's contract rents solely to facilitate a TPA. However, if a reduction in rent prior to restructuring will result in significant financial harm to the property, thereby jeopardizing the TPA, then it may be appropriate to extend the rents at current contract levels.

4. Post-Restructure TPAs by OMHAR

Q. How long after a restructure has closed can OMHAR do a TPA?

A. Once a debt restructure has been completed OMHAR has no further authority over the asset and so cannot undertake a TPA. OMHAR's role at that point will be limited to advising on whether the purchaser is a "Qualified Non-Profit" eligible for debt forgiveness. If, however, the TPA is part of the closing transaction and occurs simultaneous with or a day or two after the closing of the restructure, then OMHAR has the authority to do the TPA.

5. Timeframe for obtaining TPA approval

Q. At what point in the restructuring process should the TPA package be submitted?

A. The package should be submitted as soon as possible after the Restructuring Commitment has been signed. It may be possible to obtain 2530 clearance prior

to the RC being issued but most of the other TPA documents need to accord with the Restructuring Plan, hence the plan needs to be finalized prior to the TPA submission. Sixty days is the usual timeframe for processing a TPA and that's also the life of the Restructuring Commitment.

6. 2530 Clearance Requirements

Q. What type of TPA is required when a Limited Partner's interest is transferred to a General Partner?

A. If a Limited Partner is going to become an additional General Partner it's within the PAE's discretion to decide whether there will be a resulting change in the control of the ownership entity requiring a modified TPA. If, on the other hand, an existing General Partner is being replaced by a Limited Partner then a modified TPA will be needed.

7. Waiver of TPA fees

Q. Are the TPA fees waived both when the HUD Field Office processes the TPA and when the PAE processes the TPA?

A. It's waived when the PAE does the TPA. OMHAR will have to investigate if it's also waived when the HUD Field Office does it.

8. TPA requirements when there's no 1st Mortgage

Q. If the 1st Mortgage debt is written off as part of the restructuring but there's a HUD-held 2nd Mortgage is a TPA necessary if the property is being sold?

A. Strictly speaking a formal TPA may not be required but the PAE should ensure that the prospective purchaser is suitable.