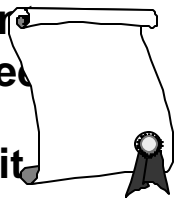


2003
NAHT Conference
Mark to Market
(M2M) Workshop

Presented by:
The Coalition for
Economic Survival (CES),
Los Angeles Center for Affordable
Tenant Housing (LACATH)
323-656-4410 Fax 323-656-4416
<http://www.CESinAction.org>

Some of the materials used in this guide are part of past M2M guidelines, guides and ideas from organizations such as the California Coalition for Rural Housing (CCRH), HUD and other groups.

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!**
- 

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!**

Taken from the California Coalition for Rural Housing (CCRH) M2M materials

Section 8 Contract Expirations and Owner Options



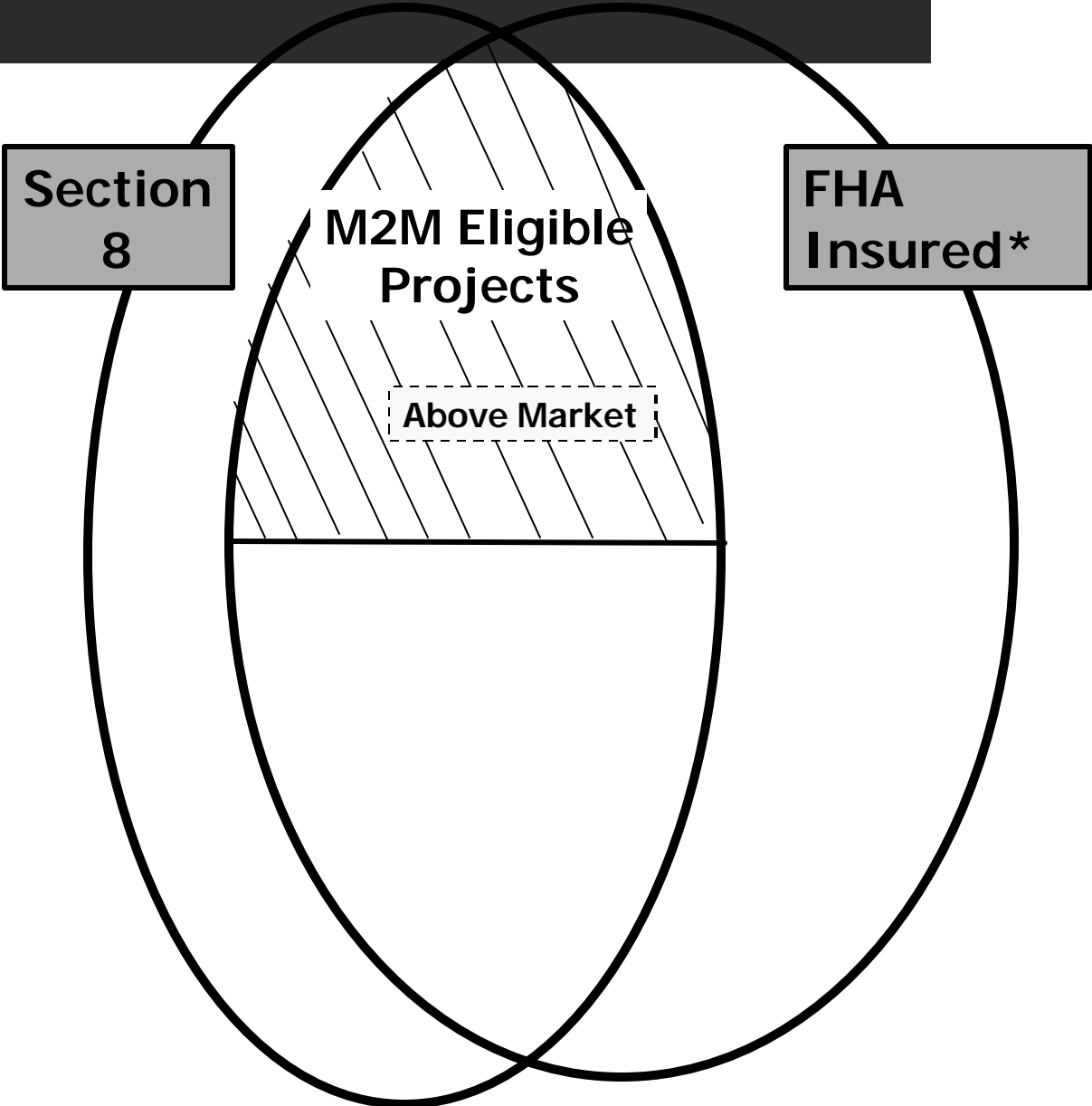
As the 20-year HUD Section 8 Contracts come for expiration, your building owner must make a choice that will directly impact your living situation

- 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



*Or HUD-held - Multifamily


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