

OVERVIEW OF GOVERNMENT PROGRAMS

The following sets out brief descriptions of a wide variety of multifamily programs that are administered by the U.S. Department of Housing and Urban Development ("HUD") for housing for lower income persons.

Each of the programs discussed below have a series of rules, requirements and provisions beyond what are presented here. We will be happy to discuss the intricacies of any of these programs further.

I. HUD GRANT PROGRAMS TO LOCAL GOVERNMENTS.

The Community Development Block Grant program is authorized under Title I of the Housing and Community Development Act of 1974, as amended. The CDBG program is administered by HUD, through local cities and urban counties. Seventy per cent of the program's allocation provides annual "entitlement" grants on a formula basis to metropolitan cities (central cities of Metropolitan Statistical Areas ("MSAs") or other cities within MSAs with populations of at least 50,000) and urban counties. The remaining 30% is distributed to "small cities" by states (except in Hawaii where HUD administers the program and distributes funds to the 3 eligible local governments by formula).

Grant Recipients must give maximum feasible priority to CDBG activities which either benefit low-and moderate-income persons, aid in the elimination of slums and blight or address urgent needs of the community. Grant Recipients may use CDBG funds for a wide range of activities. While rehabilitation, which may be accomplished through grants, loans or guarantees to developers, is a specifically-enumerated eligible activity, assistance to developers for new housing construction (with the exception of "last resort" emergency housing) is generally only eligible when undertaken with the participation of neighborhood-based non-profit organizations, small business investment companies or local development corporations. Construction-related activities, such as land assembly, clearance and demolition, can be assisted without the participation of such entities.

In addition to obtaining loans under the CDBG program, you can also obtain loans under the CDBG Section 108 Loan Guarantee program. CDBG funds are often sought after and are in limited supply. However, under the Section 108 program, future CDBG allocations can be promised as security for local government borrowing, to be used in the event of a default. Loan funds are raised through securities issued by the local jurisdiction, which are prepared and guaranteed by HUD.

Local jurisdictions have traditionally been reluctant to use this program out of fear of putting future CDBG funds at risk. HUD has therefore sought ways to facilitate the use of the §108 program. The Multifamily Housing Property Disposition Reform Act of 1994 ("Multifamily Housing Act") provides grants to jurisdiction from recaptured Urban Development Action Grant funds. In addition, HUD developed the Economic Development Initiative ("EDI"). Both of these can be used as loan-loss reserves or to reduce loan interest rates.

II. HUD MORTGAGE LOAN INSURANCE PROGRAMS.

HUD's most active program for mortgage insurance of loans for multifamily housing is under Section 221(d)(4) of the National Housing Act of 1934. Section 221(d)(4) provides for federal insurance of private construction and permanent mortgage loans to finance new or rehabilitated rental apartment complexes containing five or more units. Under HUD regulations, the amount of any HUD-insured mortgage loan cannot exceed the lesser of the amount of the HUD insurance commitment (as amended from time to time) or 90% of the replacement cost of the apartment complex, as determined by a certified public accountant following the accounting procedures specified by HUD.

Section 220 of the National Housing Act, as amended, provides for federal insurance of private mortgages in a similar manner to Section 221(d)(4), but is restricted to residential property in certain urban areas which are in need of revitalization. The requirements and conditions under Section 220 are otherwise substantially as described above for Section 221(d)(4).

Pursuant to Section 223(f) and Section 207 of the National Housing Act, as amended, HUD insures private mortgages made in connection with the purchase or refinancing of existing multifamily apartment complexes. This program provides for the preservation of existing housing and neighborhoods through moderate rehabilitation of the property and improved maintenance and management.

Under HUD regulations, an apartment complex must be at least three years old, consist of five or more dwelling units, generally, have attained an occupancy level which produces rental income sufficient to pay operating expenses and annual debt service, and have established a reserve fund for replacement. Generally, a Section 223(f) mortgage cannot exceed 85% of the HUD-estimated value of the apartment complex, or 70% if the apartment complex is to be refinanced without a change in ownership. The term of the mortgage cannot be less than ten years nor greater than 35 years; and there can be no prepayment, except after a specified period or with approval of HUD. The mortgage may also contain provisions for a prepayment charge.

HUD can also insure loans under 223(a)(7), which permits a modification of an existing loan. The program allows an interest rate reduction, extending the loan term by no more than 12 years and/or restablishing the original principal amount of the loan. This program is often used together with restructuring under expiring Section 8 contracts.

HUD also insures loans for privately owned elderly housing projects, under Section 231 and 232 of the National Housing Act. The Section 231 program provides housing for persons age 62 or older. Projects must consist of eight or more new construction or rehabilitation units. Many Section 207 program provisions apply to this program as well. The Section 232 program finances nursing homes, intermediate care facilities, board and care facilities and assisted living facilities.

III. FEDERAL SUBSIDY PROGRAMS THROUGH HUD -- SECTION 8.

The Section 8 housing program was originally enacted by the Housing and Community Development Act of 1974 ("1974 Act") as Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. § 1437f). Section 8 was intended to be a successor program to the Section 236 program. Section

236 of the National Housing Act provided mortgage insurance and subsidies that reduced the effective interest rate to one percent. However, this subsidy did not reach the lowest income. Also, the Section 236 program had certain administrative components that are unattractive to developers. Section 8 was an outgrowth of the Section 23 program, where private owners leased units to a PHA, which then subleased to tenants.

Several distinct programs emerged under Section 8 -- New Construction, Substantial Rehabilitation, Loan Management Set Aside, Moderate Rehabilitation, Existing Housing Certificates and Vouchers, and Property Disposition. Each of these programs have certain common elements.

Each program uses the same set of defined program terms. Each program is designed so that participating tenants pay no more than 30% of adjusted income in rent, while the government pays owners the difference between that tenant payment and the full Contract rent amount.

The Contract rents have been generally set according to certain published Fair Market Rents ("FMRs"). Previously, HUD published FMRs for the New Construction, Substantial Rehabilitation, Existing and Moderate Rehabilitation programs. HUD only periodically publishes FMRs for Existing Housing and Moderate Rehabilitation programs in the Federal Register. Notwithstanding this, many people use the FMRs for more than the specified programs. Most of the older project-based Section 8 programs adjust rents based on Annual Adjustment Factors ("AAFs"), published periodically in the Federal Register. The AAFs are slated as a percent increase of the existing, HUD-approved rent.

For projects where the original long term Section 8 contract expires, and the owner renews the project-based Section 8 contract, annual adjustments to the rent are made through application of an Operating Cost Adjustment Factor published annually by HUD. Such projects may receive a budget-based rent increase if requested by the owner and approved by HUD. In the Section 8 Housing Choice Voucher Program, the local public housing agency ("PHA") establishes a payment standard for the program and the PHA makes an assistance payment on behalf of the family that is equal to the lower of the payment standard minus the total tenant payment (generally, the total tenant payment is 30% of the family's monthly adjusted income) or the gross rent for the rent minus the total tenant payment.

Generally, Section 8 rents may not materially exceed rents paid for comparable market-rate units. Material differences are permitted where HUD approved such differences at project development.

Section 8 subsidies are targeted to very low income families. Very low income families are those earning 50% or less of area median income, adjusted for family size. HUD periodically issues designated area income limits. Section 8 subsidies are also available to low income families to a limited extent. "Low income" is defined as families earning from 50% to 80% of area median income.

In the Section Housing Choice Voucher program, of the families initially provided assistance by a PHA in any fiscal year, not less than 75% must be families whose incomes do not exceed 30% of the area median income, adjusted for smaller and larger families. In the Section 8 project-based programs, of the dwelling units which become available for occupancy in any fiscal year that are

assisted under the Section 8 contract, not less than 40% shall be available for leasing only by families whose incomes at the time of commencement of occupancy do not exceed 30% of area median income as adjusted for family size.

Section 8 subsidies are administered pursuant to a Housing Assistance Payments ("HAP") Contract. The HAP Contract is executed between the project or unit owner and the Contract Administrator. Generally, the Contract Administrator is either HUD, a local PHA, a State housing finance agency or the Rural Housing Service (formerly Farmers Home Administration).

If an agency other than HUD is the Contract Administrator, then HUD will execute an Annual Contribution Contract ("ACC") with the agency. HUD provides all of the funding for the Section 8 subsidies to the agency. Regardless of who the Contract Administrator is, the Owner also executes a lease with the tenant. Lease terms must be acceptable to HUD and/or the Contract Administrator.

In addition to these procedures, Section 8 procedures vary from program to program.

Many of the long term contracts are expiring or nearing expiration. Pursuant to The Multifamily Assisted Housing Reform and Affordability Act of 1997 ("MAHRA"), HUD can restructure insured mortgage loans, where the property is subsidized through the Section 8 program. This effort is commonly referred to as "mark-to-market." For projects which do not opt out of HUD's programs, properties with rents above market will have rents reduced to market and properties with rents below market may have rents increased to market.

Property Disposition

Pursuant to Sections 221(g) of the National Housing Act, 203 of the Housing and Community Development Amendments of 1978, as amended, and 204 of the Department of Veteran Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1997, as amended, if HUD acquires a multifamily property as a result of an FHA-insured loan default and ensuing foreclosure or deed in lieu of foreclosure, HUD will dispose of the property. The local government must be provided with a right of first refusal to purchase the property. HUD can sell the property for a nominal amount, as low as one dollar (\$1.00). In addition, HUD can provide an upfront grant in conjunction with the disposition of up to \$40 K per unit for demolition, rehabilitation or rebuilding of the property.

IV. THE HOME INVESTMENT PARTNERSHIPS PROGRAM.

The HOME Investment Partnerships program distributes more than a billion dollars a year in funding for new construction and rehabilitation of multifamily and single-family rental and home ownership properties through participating jurisdictions. Participating jurisdictions include states, certain cities and some consortia of geographically contiguous units.

Eligible activities include acquisition, new construction, reconstruction, moderate or substantial rehabilitation, site improvement, conversion, demolition and other expenses. Eligible housing specifically includes housing for the homeless, including permanent housing for the disabled homeless, transitional housing and single room occupancy projects. "Elder cottage housing" is also

specifically eligible. Assistance can be through equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies, deferred payment loans, grants or other forms of assistance permitted by HUD.

Eligible costs are the actual construction costs needed to meet the new construction or rehabilitation standards of the participating jurisdiction. Eligible costs also include:

1. An initial operating deficit reserve for an 18-month period for both new construction and substantial rehabilitation.
2. Soft cost such as architectural and engineering costs, settlement costs, costs of project audit, affirmative marketing and relocation costs. Up to 10% of a jurisdiction's allocation can be used for administrative and planning expenses.

HOME has certain global use restrictions which apply to each participating jurisdiction, specifically: 90% of HOME funds for rental activities must go to families with incomes below 60% of median family income; the remaining 10% must go to families with incomes up to 80% of median.

HOME is unusual in that it has a match requirement. HOME requires a match of 25% for all activities. The matching contribution was waived for Fiscal Year 92 funding, and can be waived for future years for distressed areas.

In any event, multifamily rental projects can receive subsidy up to the Section 221(d)(3) mortgage limit for the relevant area. Such amounts will be increased in high-cost areas to the extent that area multifamily costs exceed the national average, with a maximum increase of 140%. To qualify as affordable rental housing, rents may not exceed the lesser of HUD fair market rent or 30% of the adjusted income of a family with an income equal to 65% of median. Family size is computed by the number of bedrooms as in Tax Credit projects. At least 20% of the units must be occupied by tenants below 50% of the median paying not more than 30% of their family income for rents, or tenants below 50% of median paying rents not greater than 30% of gross income of family whose income equals 50% of median. Remaining families must be below 80% of median. Tenants whose income increases over 80% of median must pay the lesser of 30% of income or the amount payable under state or local law. (This rule does not apply to Tax Credit projects.)

Projects must remain affordable for a period of 5 years if less than \$15,000 in HOME funds are used in the projects, 10 years if \$15,000 - \$40,000 is used, and 15 years if over \$40,000 is used for rehabilitated housing. The affordability period is 20 years for all new construction housing. HOME-eligible units can be in a mixed-income or mixed-use project.

V. HOPE VI/PUBLIC HOUSING PRIVATIZATION

In 1993, Congress enacted the Urban Revitalization Demonstration Program as part of the 1993 Appropriations Act for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies. Pub.L. 102-389. This program is commonly referred to as "HOPE VI". HOPE VI funds, as well as public housing capital funds, can be used to revitalize or redevelop public housing within a development which is owned by an entity other than the housing authority. Typically, these developments include non-public housing tax credit units and include

above market rate units. The public housing units are also eligible to receive an operating subsidy for 40 years.

An interested public housing authority will submit an application to HUD which contains the details of its proposal for the use of the HOPE VI Funds and identifies the proposed development team, including all private sector partners/joint venturers. HUD awards grants to housing authorities meeting the requirements set forth in the applicable Notices Of Funding Availability (NOFAs) and the grant application guidelines.