



Minnesota Housing
Finance Agency

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Telephone: 651-296-7608

Date: May 16, 2003

To: Owners and Management Agents of
Section 8 and HUD Risk Share Developments

From: Vicki Chilstrom, Director of Asset Management

Phone: (651) 296-9538

Subject: REAC Inspection Scores

The Minnesota Housing Finance Agency (MHFA) recently received notification from the U.S. Department of Housing and Urban Development (HUD) regarding changes in the REAC inspection process. The entire memo sent from HUD has been attached and details the process that HUD will use for developments that score 59 and below on the REAC inspection. I strongly urge owners and management agents to read the memo and become familiar with its contents.

If after you read the attached document, you have any questions, please contact the Housing Management Officer assigned to your development. For those developments that show a failing score on the most recent REAC inspection, your assigned Housing Management Officer will be contacting you to talk about potential solutions.

Thank you.

VC:smm

Attachment

cc: Housing Management Officers, MHFA



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers

A handwritten signature in cursive script that reads "Beverly J. Miller".

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

SUBJECT: Under 60 Compliance – Disposition and Enforcement

The Department must ensure that all properties in our inventory are in acceptable physical repair at all times. Most properties (over 90%) are being maintained in an acceptable manner. Those that fail to be kept in good repair, however, are subject to our new, more rigorous procedures. No longer will HUD allow properties to be assisted or insured when the tenants are not receiving quality housing. The Field Office must give special attention to any property whose physical condition fails to meet standards as indicated by a physical inspection score of less than 60 points. The owner will be offered an opportunity to achieve a physical inspection score over 60. Upon re-inspection after 60 days, if the property again fails to achieve a score above 60, the **Field Office must take decisive action.**

If the result of the second inspection indicates continued physical condition problems (e.g., a score less than 60) the Hub must take action immediately and develop a Compliance/Disposition/Enforcement Plan. In contemplating one or more of the options (see examples below) the Hub Director will ensure that the conditions existing at the property are significant. Significance takes two general forms:

- 1 The degree and/or type of defects cited are directly related to the safety of the residents. This might be reflected in multiple health and safety issues, defects or an array or pattern of defects that indicate essential living services might be curtailed (heat, lights, water and sewer etc.). In all cases, after the first inspection, or after the second inspection, the owner must repair or mitigate all Exigent Health and Safety (EH&S) and Health and Safety (H&S) conditions as directed by our protocols.
- 2 The pattern of defects over time reflects the capability or willingness of the owner or its agent to deliver basic decent, safe and sanitary housing. Patterns of non-compliance or mismanagement often become clear when analyzing multiple inspections. Such analysis may reveal where management and ownership have failed. Look for similar defects throughout the physical plant; significant numbers of exigent and non-exigent health and safety issues, and multiple or repetitive occurrences of systemic and maintenance defects over multiple inspections. Such often demonstrate

poor oversight and control by either or both, management and the owner. When there is question about the significance of your findings, consult with the appropriate parties in the Field Office, Hub and Headquarters. Please contact your Headquarters desk officer to arrange a discussion.

In developing a Compliance/Disposition/Enforcement strategy, consider the entirety of property operations. Important indicators include, but are not limited to: distributions paid during the periods when physical condition was not acceptable; reserves and residuals exist but are not being used; poor management as evidenced by management reviews; and, tenant complaints. Physical distress indicates poor performance but in most instances, is not a cause of the distress in and of itself. Physical problems may be so intense that they erode the property's cash flow so that the owner is unable to maintain the facilities and services. This is no excuse for poor performance, however. How the owner responds to problems beyond its control will be considered in judging an owner's application for future participation.

Once the analysis is complete, there are only a few options for action. The actions include:

- Foreclosure -- For a Secretary Held Mortgage (SHM) that is delinquent under the mortgage, HUD can foreclose immediately. For insured properties, Headquarters will have to direct the mortgagee to accelerate the debt. The Hub Director's recommendation for acceleration and foreclosure must be sent to the Headquarters, Office of Asset Management.

Prepayment -- For those properties that have the right to prepay without HUD approval, prepayment is an option.

Abatement/termination – Depending upon the circumstances, the Hub director may abate with the intent to terminate Section 8 contracts. To abate and terminate the Section 8 contract(s), the Hub director must make a determination that the market can accommodate voucher holders, and order and issue them for the affected tenants.

Mortgage sale – For non-subsidized SHM properties (those with less than 50% Section 8 units) HUD may sell mortgages in a mortgage note sale.

Restructuring by OMHAR – Some Section 8 assisted properties in the under 60 category still may be eligible for restructuring. Since the property is not in good repair, and restructuring is often protracted, restructuring will rarely be a good option. To receive consideration for restructuring, all EH&S and H&S conditions must be corrected or mitigated as directed by our protocols.

Transfer of Physical Assets (TPA) – As with restructuring, if a TPA can be affected, and the property brought to good repair quickly, a TPA may be a viable option. However, the health, safety and welfare of the tenants must be considered and protected. To receive consideration for a TPA, all EH&S and H&S conditions must be corrected or mitigated as directed by our protocols. The speed of actions to repair will determine the viability of this option.

In pursuing any of these options, you may discuss them with the program expert or your Desk Officer. Confer with Audrey Hinton on mortgage sales. Confer with the Property

Disposition Centers and the DEC on foreclosures and accelerations. Confer with OMHAR on restructurings.

After the second inspection, if the condition is still unacceptable, (i.e., still less than 60) the Hub must take one or more of the actions stated above. The Field Office must prepare a written plan for Compliance/Disposition/Enforcement action and enter the detailed steps of the plan in REMS on the Problem Statement screen. The plan must clearly outline the steps that are to be taken to achieve the desired action, and be recorded in REMS. For example, if the decision is to foreclose on a SHM, the first step will be to issue the 21-day letter, and then refer to the PD Center, etc. As the options you may take are all actions you take under normal servicing, this is not new guidance for those actions.

If the property's physical condition is unacceptable as indicated by a score below 60, the Field Office must flag the principals and any management agent in the Active Partners Participation System (APPS). Remember that all scores below 60 must be entered into APPS to ensure that HUD staffs nationwide are aware of the potential risks of dealing with the participants. If the property scores above 60 upon re-inspection, the flag should be resolved. It will however, remain in history for consideration.

Additionally, you should refer the owners and/or agents to the DEC for sanction as appropriate. Consider the participant's history in making your enforcement recommendations to the DEC. The Field Office may recommend debarment for participants with repeated or long-standing non-compliance issues. Other, less severe sanctions, suspensions and Limited Denials of Participation, may be recommended for lesser offenses. Where appropriate, the DEC may assess civil money penalties.

The Field Office must prepare and record in REMS, a Compliance/Disposition/Enforcement Plan no later than 30-days after the release of the re-inspection. The Plan must be recorded in REMS on the Problem Statement screen. Other events and activities should be recorded in their usual manner in REMS, e.g. EH&S activities should be recorded on Physical Condition screen, TPAs on the ownership screen, etc. See the attached data systems guide for details on recording the information in our data systems.

To ensure that Compliance/Disposition/Enforcement plans are developed and on schedule, you will be required to report on progress at our regularly scheduled conference calls. Any request for exception to this policy must be forwarded to Headquarters immediately upon release of the re-inspection. Forward exception requests to Beverly Miller at the REAC Inspection mailbox. If you have any questions please contact your desk officer.

Attachment

cc: HTGP:Pollard:6176: HTGB:Hannon:6176: HTGP:Hill:9134: HTG:Miller:6160:
cc: Asset Management Staff:HTGB:POLLARD:lal:4-4-03:708-3730 x2543:J:\HTG\Under 60
Compliance-Disposition-Enforcement

HTGP	HTGB
Pollard	Hannon