

September 26, 2005

Office of General Counsel  
Rules Docket Clerk, Room 10276  
U.S. Department of Housing and Urban Development  
451 7th Street, S.W.  
Washington, DC 20410-0001

**Re: Docket No. FR-4995-N-02; HUD-2005-0017  
Proposed Fair Market Rents for Fiscal Year 2006 for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program and Certain Other HUD Programs; Supplemental Notice on 50<sup>th</sup> Percentile Designation**

Dear Sir or Madam:

The National Association of Affordable Housing Lenders (NAAHL) represents America's leaders in moving private capital to those in need – 200 member organizations committed to increasing private capital lending and investing in low- and moderate-income (LMI) communities. Members are the “who's who” of private sector lenders and investors in affordable housing and community development: banks, thrifts, local and national nonprofits, mortgage companies, loan consortia, financial intermediaries, pension funds, and foundations.

We appreciate the opportunity to submit comments on the notice of August 25, 2005, announcing the proposed 50<sup>th</sup> percentile Fair Market Rent (FMR) area designations for FY 2006 Fair Market Rents (FMRs) for the Housing Choice Voucher, Moderate Rehabilitation Single Room Occupancy Program and certain other HUD programs. NAAHL strongly supports the Housing Choice Voucher program, which provides some rental assistance to over two million very-low income households.

As a result of our strong support, NAAHL **has serious concerns over the reduction in the number of areas that qualify for 50<sup>th</sup> percentile FMRs.** The August 25 notice rescinded 50<sup>th</sup> percentile designations for 34 of the 48 areas that previously were designated eligible. These include areas in Arizona, California, Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Utah and Wisconsin.

In some of these cases, the reductions in FMRs will be sufficient to trigger rent reasonableness analyses. The result could be that owners of rental units decline to participate in the program, forcing assisted tenants to move. As the inventory of affordable rental housing declines, affected tenants will have more difficulty finding a suitable place to live. Even if the current rent is determined to be reasonable, the drop in

FMRs means a drop in the payment standard and thus the maximum subsidy allowed to the tenant. In this case, assisted tenants may stay in the units but would be forced to pay a higher share of the rent. For many very-low and low-income households, this may not be an option. Therefore, we offer specific recommendations on the proposed FY 2006 50<sup>th</sup> percentile FMR area designations:

**(1) Base all FMRs on the 50th percentile**

The original FMR standard was based on the median, or 50<sup>th</sup> percentile, rent in all areas of the country. During the 1990s HUD reduced the standard, first to the 45<sup>th</sup>, and then to the 40<sup>th</sup> percentile. In 2000, HUD recognized that this was creating problems and restored FMRs to the 50<sup>th</sup> percentile in areas that meet certain criteria, which are supposed to be reviewed on a three-year cycle. All these changes were the result of regulatory decisions made by HUD, rather than legislative action.

NAAHL believes that FMRs should be restored to the 50<sup>th</sup> percentile rent in all areas of the country. The criteria established by HUD for 50<sup>th</sup> percentile FMR status have not been thoroughly vetted through a complete public comment process and risk undermining private sector confidence in the program's sustainability.

**(2) Do not remove the 50<sup>th</sup> percentile designation because the boundaries of a metropolitan area change**

The U.S. Office of Management and Budget (OMB) published a new list of metropolitan area definitions in 2003. HUD adopted these new definitions for the FY 2006 FMRs. The new metropolitan definitions separated some counties from 50<sup>th</sup> percentile FMR areas. HUD ruled that several of these are now ineligible to receive 50th percentile FMRs because they contain fewer than 100 census tracts. The eleven affected areas are Allegan County, MI; Ashtabula County, OH; the Holland-Grand Haven, MI Metropolitan Statistical Area (MSA); Hood County, TX; Mohave County, AZ; the Monroe, MI MSA; the Muskegon-Norton Shores, MI MSA; Nye County, NV; the Ogden-Clearfield, UT MSA; Pottawatomie County, OK; and Warren County, NJ.

If HUD does not set FMRs at the 50<sup>th</sup> percentile for all areas of the country, NAAHL recommends that HUD at least restore the 50<sup>th</sup> percentile designation for the eleven areas that lost the designation simply as a result of adopting OMB's new metropolitan area definitions.

**(3) Do not remove the 50<sup>th</sup> percentile designation based on the participant concentration criterion, unless there is strong evidence that doing so will not cause the concentration problem to recur**

One of the criteria set forth in the interim rule for retaining 50<sup>th</sup> percentile status is that at least 25 percent of program participants be located in the five percent of census tracts with the highest number of voucher participants. HUD initially raised the FMR standard to the 50<sup>th</sup> percentile in certain areas due to problems with participant concentration, so

the emphasis on concentration in this rule seems inconsistent with other HUD policy. Before lowering FMRs in these areas back to the previous standard, HUD should have persuasive evidence that doing so will not exacerbate the initial problem. Otherwise the outcome could easily result in areas switching back and forth between 40<sup>th</sup> and 50<sup>th</sup> percentile FMRs every three years. This program instability would disrupt the Section 8 program at the local level, and also further undermine private sector confidence in the program.

**(4)Do not let FMRs decline in areas affected by Hurricane Katrina**

The FMRs proposed for FY 2006 by Department of Housing and Urban Development (HUD) in the June 2, 2005, notice showed declines in many areas. Revoking the 50<sup>th</sup> percentile designation for areas in the August 25 notice caused further reductions in FMRs in some areas. Both the June 2 and August 25 notices were published before severe weather affected the Gulf Coast and other states and are based on data that was collected well before the devastation caused by the hurricane. HUD's data, therefore, does not reflect the impacts of the damage and major dislocation caused by the storms.

As is well known, the impacts of the hurricane included the total destruction of many housing units and the movement of many displaced residents into different housing markets. Both effects put pressure on local rental markets and the Section 8 program. NAHB recommends that HUD set FY 2006 FMRs at least as high as FY 2005 FMRs in Alabama, Louisiana, Mississippi, Texas, and any other state that experienced extensive hurricane damage or that has accepted or agreed to accept a substantial number of residents displaced by a disaster. This floor should apply irrespective of how proposed FY 2006 FMRs were originally calculated for these areas, or whether or not their status as areas eligible for 50<sup>th</sup> percentile FMRs has changed.

We urge HUD to take the appropriate actions to ensure that Section 8 and other housing programs work as effectively as possible. Such action is critical to help rebuild communities impacted by the recent disaster, as well as to provide all Americans the opportunity to live in housing that is safe, decent, and affordable. If you have any questions about NAAHL's comments, please call me at 202-293-9850.

Sincerely,

Judith A. Kennedy  
President