



**ADDENDUM
II**

**USING
HOME Funds for Subsidy**

ADDENDUM II

USING HOME FOR RENTAL HOUSING

HOME is short for the HOME Investment Partnership Program, which became law in 1990. Current operational regulations: Final rule, 24 CFR part 92, effective 10/16/96

OVERVIEW

- ' The HOME Program can be used to create or rehabilitate affordable rental housing.
- ' Assistance is provided to property owners who, in turn, agree to restrict rents and limit occupancy to low income residents for a specified period of time.
 - Rents are STRICTLY controlled in assisted units.
 - Tenants that live in assisted units must have low or very low incomes.
 - Both rent and occupancy restrictions are enforced for the entire period of affordability.
 - Both the rent and income targeting requirements must be enforced by deed restriction, covenants running with the land or other mechanism approved by HUD.
 - Affordability restrictions may terminate only upon non-arms-length foreclosure or transfer in lieu of foreclosure. Affordability requirements will be revived if the owner of record before the foreclosure or anyone with business or family ties to the owner obtains an ownership interest in the property or project.

LEVEL OF HOME INVESTMENT

- ' Minimum HOME investment
 - \$1,000/unit
 - Minimum is a per-project average for all HOME assisted units
- ' Maximum HOME investment
 - The maximum amount of HOME investment is **the lesser of** :
 - maximum amounts published by HUD (221(d)3 limits); **OR**
 - the total project development costs; **OR**
 - the minimum required for project feasibility **OR**
 - MSHDA established program limits
 - Minimum is a per-project average for all HOME assisted units

REQUIREMENTS AT INITIAL OCCUPANCY

Every assisted unit is subject to rent controls and income targeting restrictions designed to make sure that rents are affordable to low income households and low income households are targeted.

Occupancy Requirements

There are **three rental occupancy standards** under HOME:

- All HOME-Assisted Units must be rented, throughout the compliance period, to households who have annual incomes¹ that are at or below 60% of Area Median Income (AMI) as defined annually by HUD. These tenants are known as "low income" (LI) under HOME.
- If the project contains five or more HOME-Assisted Units, at least 20% of the HOME-assisted rental units must be occupied by families who have annual incomes that are 50% or less of median income. These tenants are known as "very low income" (VLI)

Examples:

Total # of HOME Assisted Units	Low Income Units (60% > AMI)	Very Low Income Units (50% > AMI)
4	4	
5	4	1
8	6	2
11	8	3

Rent Requirements

- All HOME-assisted units are subject to rent restrictions² for the compliance period. Any units that are required to serve VLI tenants (i.e., the 20% at 50% noted above) are subject to Low HOME rents, while the remaining units are subject to the High HOME Rents as defined below:

¹ Refer to Income Limits found under Tab E as published by MSHDA under IRS rounding rules. HOME income limits are calculated and published annually by HUD, and are available from HUD and on the HUD HOME web page. **There is a discrepancy between the HUD HOME limits at 30 percent of median income and the 30 percent limits permitted by the IRS for the Housing Tax Credit program. Use the HUD-published HOME limits in calculating rent restrictions and permitted household income for all units targeted at 30% of area median.** [Http://www.hud.gov/cpd/home/limits/income/income.html](http://www.hud.gov/cpd/home/limits/income/income.html)

² Refer to Tab Q "Section 8 Fair Market/HOME Program Rents" (by County). HOME rent limits are calculated and published annually by HUD, and are available from HUD and on the HUD HOME web page. **Use document with the most recent affective date.** [Http://www.hud.gov/cpd/home/limits/rent/rentlimt.html](http://www.hud.gov/cpd/home/limits/rent/rentlimt.html)

- **LOW RENTS:** For those projects with five or more HOME Assisted Units, at least 20% of assisted units must have rents which are not higher than **the lesser of:**
 - 30% of annual incomes for households at 50% of median income, LOW HOME rent as calculated by HUD, minus tenant paid utilities.

OR

- The Section 8 Fair Market Rents (FMR) (or area-wide exception rents)³ for existing housing, minus tenant paid utilities.
- **HIGH RENTS:** All remaining assisted rental units must have rents not higher than **the lesser of:**
 - The Section 8 Fair Market Rents (FMR) (or area-wide exception rents) for existing housing, minus tenant paid utilities

OR

- Rents which are 30% of adjusted income for households at 65% of median income, HIGH HOME rent as calculated by HUD, minus tenant paid utilities.

Tenant-paid utilities must be deducted from the maximum rent limits to determine the maximum permissible contract rent.

Examples:

High Rents

\$533 FMR
~~\$592 High HOME rent~~
 -\$50 Utility allowance
 \$483 maximum HOME rent

Low Rents

~~\$533 FMR~~
 \$482 Low HOME rent
 -\$50 Utility allowance
 \$432 Maximum HOME rent

- Utility allowances may be estimated using the "Utility Schedule", dated January 1986 and marked Enclosure "B", found at the back of this section.
- The utility allowances prepared by the local Public Housing Authority may be used when adjusting rents.
- Utility adjustments proposed by owners/ developers for specific projects must be approved by a PJ and must be supported by documentation.

³Some communities receive exceptions from the published FMR's based upon petitions from public housing authorities. If such an exception has been granted to a jurisdiction on an area wide basis, HOME participants may compare the "exception rents" to rents calculated for households at 65% of median

FUTURE RENT AND OCCUPANCY REQUIREMENTS

- ' For projects assisted with HOME funds, the assisted units are controlled for a minimum of 5 - 20 years, depending upon the HOME dollars per HOME-assisted unit and the activity undertaken.

Rehabilitation or acquisition of existing housing

< \$15,000/unit	5 years
\$15,000-\$40,000/unit	10 years
>\$40,000	15 years

New construction or acquisition of new housing 20 years

A Regulatory Agreement or Note and Mortgage will detail the period of affordability for each project.

- ' During the entire affordability period, owners must maintain the project's low income occupancy and rent restrictions and otherwise comply with HOME Program regulations and the Regulatory Agreement or Note and Mortgage.
- ' Both the rent and income targeting requirements must be enforced by deed restriction, covenants running with the land or other mechanism approved by HUD.
- ' MSHDA annually provides FMRs and calculations of rents affordable to VLI and LI families so that owners and program administrators can establish new rents for projects.
- ' Maximum monthly rents and utility allowances must be established annually by the owner in accordance with the HUD guidelines.
- ' Based on the annual rent charts, rents may increase or decrease. In the event of an increase, tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. Rents could decrease! However, project rents are not required to fall below the HOME rent limits in effect at the time of project commitment or the tax credit rents in effect the year the project is placed in service, whichever is higher.

SPECIAL ISSUES IN MIXED PROJECTS

#1 Identifying Assisted Units In Mixed Projects

- ' Most affordable rental housing projects will be 100% low income and subject to rent and occupancy requirements on all the units.
- ' However, the HOME Program regulations require restrictions only for those units for which HOME funds pay for a portion or all of the prorated capital costs - i.e., the "HOME -Assisted Units". Units that are fully funded with other funds are not subject to HOME rent and occupancy restrictions, creating a mixed-income project.

Mixed-income projects raise several questions related to defining the “assisted” units in the project.

#2 Determining the number of "Home-Assisted Units" in a particular project.

The HOME program requires that the minimum number of HOME assisted units must be equal to the proportion of development costs paid for with HOME funds, roughly calculated as follows:

$$\frac{\text{Total HOME funds}}{\text{Total "Eligible" Dev. Cost}} = \text{\% of units that are HOME-Assisted}$$

- "Eligible" Development Costs would include all costs eligible for HOME, and exclude ineligible costs such as capitalized reserves, non-housing costs, and spaces not exclusively for the use of the residents. It would also exclude costs paid for with match funds.
- Furthermore, Eligible Development Costs cannot exceed the HOME Maximum Per-Unit Subsidy limits, as adjusted for unit sizes. If they do, the Maximum Subsidy limit would be used to compute the minimum number of assisted units.
- Also, this assumes that HOME-assisted units are proportionately distributed across the unit types in the development. If not, the calculation must be based on square footage distributions.

#3 Assisted Units can either be “fixed” or “float” throughout the project.

The HOME Program allows units to have a "fixed" or "floating" designation, which is selected by the developer.

- The fixed designation means that specific units are designated as HOME-assisted for the entire compliance period, and any new occupants in those units must be income-eligible. The unassisted units will not be required to be used according to HOME regulations at any time (unless a compliance violation by the owner requires use of the unrestricted unit(s) to correct the violation).
- The floating designation means that a certain number of units are to be classified as HOME-assisted, but the units that comprise that total are going to vary over the compliance period as units turnover. When the floating designation is used, the non-assisted and assisted units must be comparable.
- Comparability requires that:
 - The units have similar size, based on the number of bedrooms; and
 - The units have similar amenities.
- The program administrator or owner must select floating units at the time of project commitment.

MINIMUM PROPERTY STANDARDS

New Construction and Rehabilitation

- Accessibility requirements of the Fair Housing Act and Section 504
- Locally-adopted standards including all:
 - codes
 - ordinances
 - rehabilitation standards
 - zoning ordinances
- If no local standards exist, projects must meet either:
 - One of these model codes: Uniform Building Code (ICBO), National Building Code (BOCA)
OR
 - Council of American Building Officials One to Two Family Code (CABO)
OR
 - Minimum Property Standards set forth in 24CFR 982.401 (HQS)

OTHER FEDERAL REQUIREMENTS⁴

Additional Federal requirements are applicable to participants in the HOME program.

- 24 CFR part 5, subpart A requirements include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug free workplace.
- Affirmative marketing; minority outreach program.
- Environmental review.
- Displacement, relocation, and acquisition.⁵
- Labor
- Lead-based paint
- Conflict of interest.

LONG TERM CONSIDERATIONS

Long term Compliance

- Tenant income must be recertified annually during affordability period
- If income increases above 80% of median, rent must be increased to the lesser of:
 - market rent OR
 - 30% of tenant's adjusted income
- Rents must be reviewed annually for all HOME-assisted units
- Property inspections:
 - annually for projects of 26 or more units

⁴Please consult "HOME Investment Partnerships Program FINAL RULE" available from HUD and on the HUD HOME web page. [Http://www.hud.gov/cpd/home/homereg.html](http://www.hud.gov/cpd/home/homereg.html)

⁵If project requires acquisition or involves tenant occupied properties contact MSHDA's Relocation Specialist (Victoria Mills, (517) 355-7810) **prior to application submittal.**

- every two years for projects of 5-25 units
- every three years for projects with 1-4 units

Maintaining Low Income Occupancy

- During the affordability, tenants' incomes will rise or fall, and tenants will move.
- As units are vacated, depending on whether the project is a 100% low income project or mixed income project, certain vacant units must be designated as low income to ensure compliance with the low income occupancy requirements.
- If tenants' income increase and they become over income, other actions may be required. A tenant becomes over income when household income increases to above 80% of the area median income for the year and the income is being re-verified. The following chart provides an overview of the specific action(s) required when tenants become over-income and/ or units become vacant:

	100% Low Income Project	Mixed-income Project
If unit becomes vacant:	Unit must be re-rented to a household at or below 60% or 50% of area median income, depending on whether the unit vacated is VLI or LI.	Same unit or a comparable unrestricted unit may be re-rented to a household at or below 60% or 50% of area median income, depending on the type of unit (VLI or LI) needed to restore compliance.
If tenant becomes over income:	Tenant cannot be asked to move and rent must be adjusted to 30% of income. When the unit is vacant, it must be re-rented as noted above.	Existing tenant cannot be asked to move and the "next available unit" (restricted or unrestricted) that is comparable or larger must be re-rented to a house hold at LI or VLI level as needed to restore compliance.