



MULTIFAMILY SPOTLIGHT

June/July 2009

News from WHEDA's Multifamily Housing Group

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Teutonia Gardens receives honors

Teutonia Gardens, a development of the Maures Group in partnership with Horizon Development, was nominated by Great Lakes Capital Fund for the 2009 Charles L. Edson Tax Credit Excellence Award competition, a very prestigious honor. The development received an Honorable Mention certificate in the Metropolitan/Urban Housing category at a ceremony held in Washington, D.C. on June 10.



Receiving Honorable Mention at the 2009 Charles L. Edson Tax Credit Excellence Awards on June 10 for Teutonia Gardens (above) are (from l. to r.) Melissa Goins, *Maures Development Group, LLC*, Hilary Swab, *Legislative Assistant for Senator Herb Kohl-Wisconsin*, and Philip Schultz, *Horizon Development Group Inc.*



HUD/Treasury & TCAP/Exchange

HUD and the IRS have issued guidance

regarding the use of TCAP and credit exchange proceeds. WHEDA is in the process of interpreting the guidance and will construct an award process accordingly. WHEDA will make announcements regarding this process on www.wheda.com and via our email subscription as information becomes available.

\$30 million awarded in Round 1

WHEDA® announced round one tax credit awards on April 24. A total of 37 applications were approved for a combined total of more than \$30.6 million in credit. These applications are projected to produce nearly 2,500 low-income units across the state. Second round applications will be announced no later than June 15.

2009 income limits for projects in Wisconsin

In 2006, the Department of Housing and Urban Development (HUD) adopted a new methodology for determining Area Medium Gross Income (AMGI) to reflect median incomes more accurately. HUD began using this method in 2007 to determine the current year AMGIs. This resulted in a reduction of income limits in some areas of the country. HUD recognized that for some programs, including Section 8, Section 221(d)(3) BMIR, Section 235 and Section 236, using HUD income limits for

qualifying residents and establishing rents had an adverse affect on some properties. As a result HUD held these properties harmless and "froze" the income limits at their previous level. The resulting policy meant tax credit properties had no rent increases.

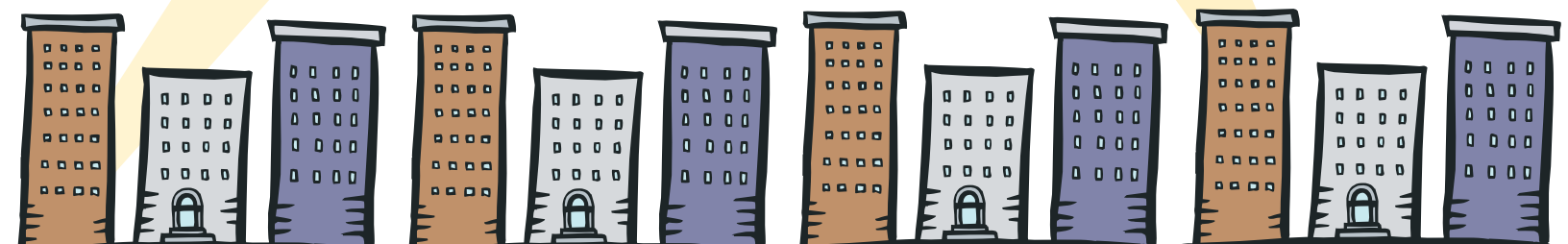
When the **Housing and Economic Recovery Act (HERA)** or H.R. 3321 was signed into law on July 30, 2008, two sections of the Area Median Gross Income (AMGI) limits application were affected.

Modification #1: AMGIs may not decrease for any year after 2008

Known as "hold harmless," this policy has been made a statute and tax credit and bond properties can apply it when determining income and rent limits.

A **Gross Income Floor** has been established for all section 42/bond programs. This benefit applies to all tax credit /bond projects moving forward.

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Modification #2: Properties that benefited from HUD's Hold Harmless policy and the median income is the greater of

The amount determined without regard to the HUD Hold Harmless policy; or

The sum of the AMGI determined by HUD under the Hold Harmless policy for 2008 projects plus any increase in AMGI after 2008.

Example: AMGI for a particular county was \$40,000 in 2006 and decreased to \$36,000 in 2007 with the change in HUD's formula. Under the HUD Hold Harmless policy, the AMGI was frozen at \$40,000. The AMGI for projects located in that county were held at \$40,000 until the AMGI median income amount increased above \$40,000. Under the Act, the median income amount that was formerly frozen will be allowed to increase by the amount of actual increase in the newly determined median income amount. In this example, if the actual median income in 2008 is \$36,000 and in 2009 increases to \$38,500, the \$2,500 increase would be added to the \$40,000 amount, so the new median income for HUD Hold Harmless projects would then be \$42,500.

On March 19, 2009, HUD issued the 2009 HUD Program Income Limits, or "Standard Limits," for programs, including Section 8, Section 221(d)(3) BMIR, Section 235 and Section 236. In response to changes in the income limit methodology as required under HERA, HUD issued the "Multifamily Tax Subsidy Income Limits" in counties where the hold-harmless methodology was used have issued a separate HERA income limits.

HUD has determined that properties in the following counties will be eligible under the new method of calculating area median income: Brown, Chippewa, Columbia, Douglas, Eau

Claire, Fond du Lac, Iowa, Kenosha, Kewaunee, Milwaukee, Oconto, Ozaukee, Rock, Washington, Waukesha, and Winnebago.

The HERA income and rent limits, must only be used by tax credits projects and/or multifamily bonded projects that received a tax credit allocation or that existed* on or before December 31, 2008. These developments MUST be located in one of the counties where HERA limits are available. In counties where the HERA limits are not applicable, projects must use the Standard Limits income and rent limits published by HUD.

Utility allowances must be deducted from these rents to achieve the maximum tenant rents allowed.

All non-tax credit projects funded with money other than tax exempt bonds must refer to their loan and regulatory agreement or the Multifamily Mortgage, Assignment of Rents and Security Agreement to determine which income limits to utilize.

Tax credit units with HOME must continue to use the HOME rent and income limits, as published by HUD. The HERA Special Income Rent Limits or Standard Limits may be applied to the non-HOME units.

Rural Development and HUD properties will utilize the 2009 Standard Income and Rent Limits. The HERA income and rent limits cannot be used by projects financed with HUD programs such as Section 8, or by Rural Development 515 projects.

If you have any doubts as to the correct income limits for your particular development or if you have any questions about the income limits, please contact the Asset Manager assigned to the development.

**Existed: defined by WHEDA as the project's placed-in-service (PIS) date. Please note that this definition is subject to change upon later IRS and/or HUD clarification and may lead to additional changes.*

SAVE THE DATE!

2009 WHEDA® MULTIFAMILY CONFERENCE

WHEDA will host its annual Multifamily Conference at the Alliant Energy Center in Madison on Thursday, October 15, 2009.

It takes a team of experienced professionals to meet the demands of Affordable Housing. With the ever-changing rules, regulations, and legislation, it is critical that all players be prepared. This year's conference will provide ALL team members with the knowledge they need to ensure a successful development whether they are a developer, syndicator, or property manager. In addition to the sessions that are of interest to owners and developers, this year's agenda will include training sessions of interest to those in the compliance monitoring and asset management side of multifamily.

GAME ON WISCONSIN!

Kinship Care payments

Effective immediately! Kinship Care payments will NOT be included as income. We have received a final determination from HUD Milwaukee that it should no longer be counted. Kinship Care payments should not be included when calculating income for residents.

Real estate is considered an asset

Real estate owned by a tenant must be considered an asset during certification. Make sure you are using the cash value and not the fair market value. Cash value is determined by taking the fair market value (which can be found on the tax bill) and deducting the expenses to convert the real estate to cash. Typical expenses include pay off balance of any existing mortgage against the property, Realtor commission and other costs of sale. You can verify the pay off balance of a

loan from the lending institution and estimate closing fees by calling a local Realtor.

The income from the asset would be zero unless the property is being rented. Rental income may be verified by an IRS form Schedule E filed with a tax return or by examining lease documents for the property. The tenant may deduct the expenses in renting the property from the annual rent. For more information, please see Appendix 6, pg. 26 of the 4350.3 REV 2.

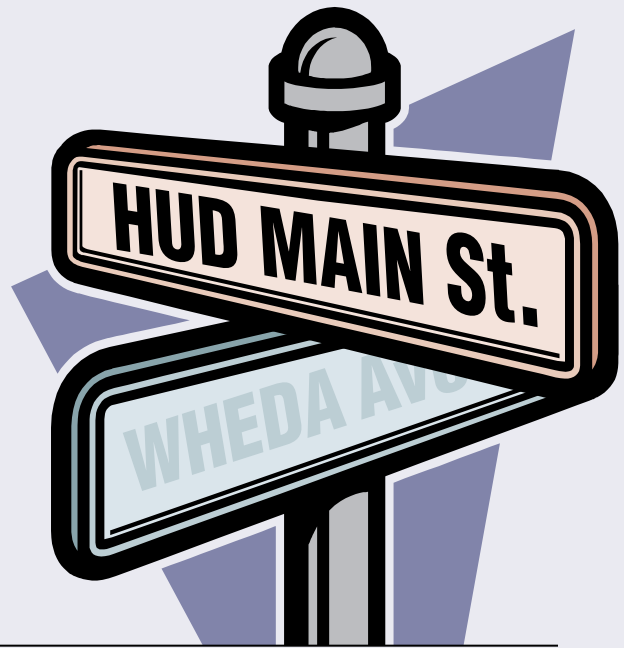
Move out date transmission clarified

Clarification and definition of a move out date signifying the end of subsidy was one of a number of updates in the 2.0.2.C release incorporating 4350.3 REV 2 change and the Special Claims Guide. In all cases, the move out date transmitted must be the actual physical move out date of the household or the date on which the vacancy is discovered by the owner/agent. In cases where there is a midday move out, the move out date transmitted must be the day prior or the last full date of occupancy and the last day of subsidy.

HUD recognizes that owner/agents can be exposed to financial losses due to the limitation on security deposits and requirement to lease using waiting lists; therefore, owner/agents are allowed to be reimbursed for any financial loss through the special claims process.

To avoid possible dual subsidy situations, it is helpful to use the EIV "Existing Tenant Query" to see if an applicant is living in another subsidized property. For further reference regarding HUD's policy please review:

- *MAT User Guide: Chapter 5, pages 5-64, Mat Field 10 Transaction Effective Date (formerly Move Out Date)*
- *4350.3 Chapter 9: Required 50059 and Subsidy Data Reporting Section 2, Paragraph E (Page -16)*



Good News on EIV printed reports file retention

HUD is finalizing negotiations with the Department of Health and Human Services (HHS) for retention of the National Directory of New Hires (NDNH) employment and income data obtained from the Enterprise Income Verification (EIV) system. HHS has agreed to allow retention of the EIV printed reports for the term of tenancy plus three years after termination of tenancy.

Through WHEDA Tax Credit training sessions, you have been instructed to destroy reports that contained NDNH data after two years. These include:

- *W4 New Hire Information*
- *Employment/Wage Information*
- *Unemployment Insurance Information*

Owners and management agents (O/As) will no longer need to destroy the EIV printed reports containing NDNH data in the tenant files when the reports are two years old.

EIV reports will now be maintained in accordance with HUD Handbook 4350.3 Revision 1, Change 2, Paragraph 5-23 (term of tenancy plus 3 years after tenancy ends).

EIV reports containing NDNH data first

available on January 18, 2008, used for verification, may remain in the resident files. This change will be incorporated in a revision to Notice H2008-3, EIV system.

If you have developed EIV Policies and Procedures, these policies should be edited to incorporate this change.

Using the EIV system becomes mandatory on September 30, 2009. If you have not started the EIV implementation process, we encourage you to start the process as soon as possible, it can take time to obtain access.

Section 8 Renewal Policy Guide changes issued

Several updates and additions have been made to the Section 8 Renewal Policy Guide. A complete copy of the changes can be found at www.hud.gov/offices/hsg/mfh/mfhsec8.cfm. The following is a summary of the changes:

1. Chapter 4, Option Two Contract Renewals for Other Projects with Current Rents At or Below Comparable Market Rents.

- *Permits increased distributions to for-profit owners that have or are willing to enter into long term Section 8 contracts.*
- *Directs the Owner to use the project's*

current debt service when preparing a budget-based rent increase.

2. The opening paragraph of Chapter 14, RHS Section 515/8 clarifies that RHS projects are not eligible for a debt restructuring under MAHRA.

3. Attachment 2, Glossary of Terms.

HUD Milwaukee updates R4R form

The Milwaukee HUD office recently updated the Reserve for Replacement (R4R) form. It includes a question on whether the products or systems are energy efficient. HUD encourages the use of energy efficient products and systems and it will help the Milwaukee office track the degree in which owners and agents are participating in energy conservation. The R4R form has been in existence for years and is optional. Owners and agents are encouraged to use it when requesting withdrawals from the R4R account.

The form asks for the current balance in the Reserve for Replacement account. This information is useful in determining the adequacy of the account. Please contact your HUD Project Manager for a copy of the updated form.

A complete directory for the Multifamily Group can be found online at www.wheda.com/root/uploadedFiles/Website/Business_Partners/Multifamily_Developers/MFHousingGRP_contact.pdf.



TAKE NOTE

HUD forms updated

Please note, a number of HUD forms were posted on HUDClips reflecting new expiration dates. A list of updated forms can be found on HUD's RHIIP web site at www.hud.gov/offices/hsg/mfh/rhiip/formsreqmatrix.pdf. No edits to OMB forms are allowed unless HUD has given specific permission.

Affirmative Fair Housing Marketing Plans form

As of May 1, 2009 HUD's office of Fair Housing and Equal Opportunity will only accept Affirmative Fair Housing Marketing Plans submitted on the HUD form 935.2A dated July 2008. All other forms are obsolete. You can retrieve the new form at www.hud.gov/offices/adm/hudclips/forms/files/935-2a.pdf.

Furnner Chief Multifamily Project Manager

Michael Furnner has been named Chief Multifamily Project Manager at the HUD Milwaukee Multifamily Program Center. Mike has over 17 years of experience working in Project Management and had served as a Senior Project Manager. Mike can be reached at 414.297.3214, extension 8650.

2009 Tax Credit Compliance Workshops

Basic Session

Wednesday, July 22, 2009

Advanced Session

Thursday, September 10, 2009

Both workshops will be held at the Best Western Midway Hotel, Brookfield, WI. For workshop details and online registration visit www.wheda.com/root/BusinessPartners/PropertyManagers/Dynamic.aspx?id=1472