2017-2018 Building HOME Webinar Series IV
Chapter 6 – Rental Activities

Les Warner: This week, we're going to be cover chapter 6, which is our rental housing activities. Just a couple of housekeeping things to talk through before we get started here. Just a reminder. This is our final weekly session, but as we noted on the agenda, tomorrow, during the first half of the office hours, we will be covering chapter 7, which is tenant-based rental assistance. So you may want to try to plan on participating in that so you know about how that activity works and how that might be an important tool for you in meeting your local housing needs.

So chapter 6, we're going to cover today. We're going to be going through not only the development phase, but also talking about the roles and responsibilities of the PJ throughout the affordability period for our rental projects, which could be 20 years or more.

Just a reminder that the sessions are being recorded and posted. So if you had to miss a session, including the office hours, those all are available using the linkage that was provided to you. If anybody needs that linkage again, you can put a posting into the chat box and Michael will send that out to you.

As you have questions as we're going through the session, you can use the Q&A box, the question and answer box, which is at the top right-hand of your screen, and type in your questions and we will be answering those as we go along. We'll also be revisiting some of those elements and talking further in some of those areas tomorrow during our office hour session.

So we're going to start out today by taking a poll just to get a feel for the folks who are participating, how many of you are funding a HOME rental activity, yes or no? And then, following that, we're going to ask you how many of you are funding a HOME rental in conjunction with the low-income housing tax credit program? Looks like the polls are open. If you would go ahead and vote, please.

Michael Reich: The poll is closing in 15 seconds.

Les Warner: Great. So for our first question, looks like 62, a little bit more than half, of our respondents are currently funding a HOME rental activity. And let's go ahead and put up the second question about where you're doing that in conjunction with low-income housing tax credits.

Michael Reich: The poll is closing in 15 seconds.

Les Warner: All right. So we've got our results in. It looks like we have a mix here, 42 out of 152 folks that have responded are using their HOME funds in conjunction with the low-income housing tax credit. And we'll mention as we go along, in a couple of places here, because of the overlay of program requirements between the low-income housing tax credit program and HOME, we'll be pointing out in a couple places how to handle where we may have conflicting or more restrictive on one program versus the other. So we'll try to point those out as we move forward.

So let's first talk about ways that we might use our HOME funds to address rental house needs. And we're going to talk through kind of quickly each one of these scenarios. We could be doing acquisition. We could be doing rehabilitation. We might be using existing structures and doing either a reconstruction or conversion, or doing new construction, creating new units.

So for acquisition, essentially the participating jurisdiction is subsidizing that purchase. And in exchange for our investment of HOME funds in the project, we're going to require that we have affordable rents and we have some restricts about income eligibility of the folks that are going to be living there, some control over affordability. So rents structure, maintaining the unit quality, and then we'll talk a little bit later about those lease provisions.

So if you think about how this works, essentially if I were to buy, let's say, a small apartment building and let's say my purchase price was going to be $1 million. For me to be able to cover my mortgage expenses, taxes, insurance, maintenance, and operating costs, put a little aside for upcoming maintenance issues over the life of that project, I would need to charge a particular amount of rent.

By putting the HOME funds in, so reducing that private debt that the project is supporting, it allows for those more affordable rents. And so, we're doing our underwriting to determine what's the correct amount that we need to be able to subsidize to make this project affordable to our targeted audience and make sure that it's going to be sustainable financially over the long run based on that structure.

So that's how we're using our HOME funds in conjunction with acquisition. For rehabilitation, we're taking an existing structure. We're going to bring it up to our property standards, which we'll be talking about as we go forward. If you were adding on space or some rooms. Maybe I have some units that are two-bedroom units. My market particularly needs family units and so I may be adding some additional square footage onto some of those units to expand the unit itself. That would be allowable under rehabilitation.

What I can't do is add new dwelling units. That's going to be considered new construction. That has some implications for our affordability period. We know that new construction for rental is automatically a 20-year affordability period. So it's important that we designate these projects correctly on whether it's rehabilitation or new construction.

A wide range of levels of rehabilitation, because we are concerned about this property being maintainable with the stream of income that's available, we're trying to make sure that we do as substantial of a rehab as needed to make sure that that's going to be a sustainable project on that. A lot of times, we're going to see this in combination with the acquisitions. We might be assisting, let's say, a non-profit or a for-profit entity to acquire and then we're going to rehab, bring that unit up to standards.

For long-term compliance, we're going to have property standards for all of our HOME-assisted units. But of course, for completion of our project itself, we're going to bring the entire project up to our standards.

So we mentioned reconstruction, I think probably in our first session. And reconstruction would be in a case where we were going to eliminate an existing building. It could be one that was destroyed within maybe the past 12 months. Might be a building that when we did our initial assessment, we determined that it was more cost-effective to instead of trying to rehab an existing building we might choose to knock it down and reconstruct a building to duplicate.

Doesn't have to be the exact same number of square footage or same number of bedrooms, but it needs to be the same number of units on that site. We don't see this done a lot under a rental activity, but it is something that's allowable. We do see quite a bit of conversion, where we take existing non-residential structures. That might be where we have a warehouse that's going to be turned into loft apartments. Or maybe we have a downtown hotel that's going to be a combination of upper floor residential units. Maybe the ground floor is going to be used for social service agencies or leased out.

We could use our HOME funds for the residential portion of that building and that would be considered a conversion project. Keep in mind that your environmental review and the level of review that's required is going to be based specifically on the scope of work that you're doing. And so, we might under HOME still call something rehabilitation, but if we're knocking down a building and building a replacement building, that's going to change the level of review that's required under environmental review.

And then, of course, new construction is really one of the major uses of our HOME funds for rental housing. And so, we're newly constructing our units. Oftentimes, this is done in combination with other funding and this is particularly where we see a lot of low-income housing tax credits being combined. We might have a trust fund, CDBG funds, other sources of funding as part of that.

And we're going to be talking later about the flexibility we have under the HOME program as part of a mixed financing project to designate some of the units in that project, based on our cost allocation methodology, as our HOME-assisted units. Meaning those units will have our affordability, occupancy restrictions, property standards, long-term, those sorts of things, while leaving other units within that property not as HOME-assisted units.

So they might be market rate units. They might be falling under the low-income housing tax credit requirement. So we have the ability to have a mix of requirements in place for the project. Some of the costs that are eligible and some of the restrictions that go along with that that make sense for us to revisit when we're thinking about rental. When we're acquiring land or we're acquiring existing structures, just keep in mind that that construction has to begin within 12 months.

So on part of your front end process on selecting projects and looking at your construction schedule, you'd be making sure that this project was going to meet our 12-month requirement on that construction beginning. Also keep in mind we talked about things such as infrastructure. Under HOME, being eligible for on-site, but not being for off-site.

So things like the site preparation, putting in streets, sidewalks, utilities. Connecting into the existing utilities that are in the public right of way. Those are going to be acceptable costs or eligible costs for your HOME rental project. But the off-site infrastructure, maybe at the edge of our property line, we're going to need to, let's say, up-size a water line to provide adequate fire suppression. And maybe we're going to need to change out from a six-inch to an eight-inch water line for a couple of blocks from our property back to a main line.

That's not on-site infrastructure. And so, that part of that would not be an eligible cost. So when we're analyzing those budgets, we may need to ask those additional questions and break out those costs to help us determine what's going to be an eligible cost for our HOME reimbursement.

Demolition. Again, it's something that's eligible, but because we are a housing reduction program, that demolition has to be part of a housing project. And we need, again, to see that construction begin within 12 months. Of course, all of our labor, materials are going to be something that's eligible.

We also, particularly with our larger-scale rental development projects, may have a lot of stock costs. Financing fees; specialists, whether it's architects, engineers, they're going to be part of this cost related to the environmental review; affirmative marketing; those sorts of things. And we're going to talk in a little bit about the 18-month operating reserve. That also would be something that would be eligible as part of this.

One of the changes under the 2013 HOME rule was allowing for predevelopment costs that have been incurred up to 24 months prior to that commitment of HOME funds to be something that would be eligible. Now, it's not wide open. This is specifically costs that are related to the planning and preparation for that. So things like work write-ups, plan specs, drawings, those sorts of things.

And you, as the PJ, if you are going to allow -- those predevelopment costs that were incurred prior to the commitment, if you're going to allow that as an eligible part of your program, you're then going to have to have some policies on the specific cost that you will allow and how you're going to collect that information as part of your application and funding review. But that is a change that was made under the 2013 rule.

So let's talk a little bit about the operating deficit reserve. So if I were -- let's say I have built a 60-unit rental project. When I complete that project and I close on my permanent financing, I'm immediately going to have some fixed costs. I'm going to need to make my mortgage payment and pay to have the lights on and management staff, those sorts of things. But I -- it'll probably take a while for me to be fully occupied or rented up to a point where I have sufficient cash flow to cover those fixed costs.

So part of our analysis on the front end is how much of an operating deficit reserve might we need for an up to 18-month period from the point that that project is placed in service? So thinking about what would my gap potentially be based on my projected market and that rent up on that shortfall between cash flow that's coming in during those initial up to 18 months as I'm renting up that project.

So this is the one reserve that you were able to essentially capitalize as part of your project funding. It's going to be based on that property-specific projection and it's essentially to cover those fixed costs, such as operating expenses, debt service, replacement reserve payments, where there's a gap between what you expect coming in versus what is going to be needed.

Other costs that might be included in that. With federal dollars being used in a project, if we cause the displacement of either individuals or businesses, they would be covered under the Uniform Relocation Act. And so, if we have replacement housing costs, moving costs, advisory services, or even temporary relocation, those can be an eligible project cost. You would need to have a relocation plan in place and also include that information as part of the budget in your funding process.

I think we mentioned in earlier sessions refinancing is something that can be eligible under the HOME program as part of an eligible activity. So if we are including refinancing of existing debt, but that is a smaller portion of the project than the actual rehab. The project, that is something that could be allowable. You would need to be able to show that that investment and refinancing would also assist to lower the overall cost for that project.

We could use our HOME funds for loan guarantees. That's something that's allowed within the regulations itself. It's not something that we commonly see within the HOME program. So we've talked about things you can do. We should talk a little bit about the things that you can't do.

So we mentioned we could pay for that initial operating reserve, but your project would also need reserves for ongoing operations and also for maintenance. That's not something that you're able to capitalize as part of your HOME funding for that project. Those reserves are going to be built up over time with payments that are coming out of cash flow. So it's not something that you can pay for with your HOME funds themselves.

We also mentioned about -- this issue about combining our HOME funds with 1937 Act Public Housing. So the development operations or modernization of public housing is generally something that is not allowable utilizing our HOME funds. If you had a PJ-owned property, it, again, would not be something that would be an eligible use of your HOME funds to essentially reimburse the PJ for a property that they already owned as part of that.

And we mentioned that we're going to be talking about tenant-based rental assistance tomorrow. And that is something that's eligible under the HOME program, but we cannot fund a project-based rental assistance with our HOME funds. So we can't take some of our HOME funds, set it aside, and provide ongoing rent subsidies for a specific property. It's certainly eligible if we have a HOME project. If we can find another source of project-based rental assistance, that's great. But we simply can't fund it utilizing our HOME funds.

As standard, we can't use our HOME funds for delinquent taxes, fees, charges, those other things. And of course, keep in mind we're going to have -- our Part 200 under 2 CFR lays out eligible cost, cost reasonableness, and that also, along with the HOME regulations themselves, also apply and we'll often make some of our costs ineligible. And also keep in mind that we cannot use our HOME funds as match generally for other federal programs. There are some exceptions for McKinney-funded projects.

Let's take a quick quiz here. Michael's going to set this up. Want to know which of the following are eligible costs for a rental housing project. Go ahead. Read through these and vote and then we'll talk about the specifics.

Michael Reich: The poll is closing in 10 seconds.

Les Warner: All right. So we're kind of across the board here on answers. Let's walk through each one of these and talk about why -- what the correct on this is. So water and sewer line through a mixed income neighborhood. So we said for HOME funds that we can pay for on-site infrastructure, but not off-site. So if it's going through a mixed-income neighborhood, this is not on-site. So it's not going to be an eligible cost.

Community building in a project that is 100 percent HOME-assisted. So in this case, because it's 100 percent HOME-assisted, it is completely used by the residents of the property. So that would be something that would be eligible. So B is our eligible cost here.

C. Operating assistance beyond an initial 18-month period. And again, we said that the only reserve that is an eligible cost is just that initial 18-month rent up period. So with this assistance going beyond 18 months, it's not something that is eligible to use our funding for. So the correct answer, as far as eligible cost, is B for this quiz.

All right. So let's talk a little bit about allowable fees. So the PJ can charge a developer an application fee that's going to be kind of appropriately sized for the type of application. The reason that many PJs choose to do this is to essentially have -- try to make sure that they're getting complete -- the applications that come. I'll say when I first started out, we didn't have as much of a competition program when the HOME program was new and oftentimes, got applications that came in that were not really ready to go. And we would sometimes work with folks over a period of time to get them ready.

At this point, we generally have a pretty competitive program. And so, by charging that application fee, generally the developer is not going to put -- and that's the money with that application fee. If they don't have a complete application that will be fundable and ready to go.

Keep in mind in all these fees, they are essentially offsetting some of the expense for the PJ on normal operations. And so, they will be considered what we call an applicable credit and they -- instead of charging off your admin fees, you're going to cover those expenses utilizing these applicable credits, these fees that you are charging. So they're not something that are entered into IVIS, but they would need to be tracked by the PJ and essentially offset what you would otherwise be charging to HUD.

So the second bullet point's kind of important. This was the big change under the 2013 rule. This applies only for projects that are funded or committed on or after August 23rd of 2013. And this allows you, as the PJ, to charge that property owner a monitoring fee throughout that affordability period. To be able to do that, you, as the PJ, would have had to set a monitoring fee in place and that will be based on actual costs that were being incurred.

So the PJ would need to be able to review what are my costs involved in this? And that might be not only your regular ongoing review of things, like improving rents and utility allowances, but also your on-site monitoring that you're going to be completing. Once that fee structure has been set, and it could be something pretty simple, could be a multilayer project or fee schedule that would be sort of individually crafted based on size and location of your property.

So once that fee schedule is in place, you, as the PJ, would need to include that monitoring fee in your underwriting to determine is this something that is going to be affordable for that project based on the available cash flow over the life of that project? And again, those monitoring fees coming in will offset your operating cost and reduce what you would be charging to HUD as an administrative cost.

Other fees that could be charged in your specific area, if it's something that's customary and reasonable, things like providing parking to your tenants and being done as a fee. If that's customary in your area and it's a reasonable cost, that also could be something that would be an allowable fee to be charged.

Let's talk a little bit about how we provide the funding, the financial mechanism of this. The HOME program itself allows the use of grants, loans, other forms of assistance. Because we have long-term affordability requirements, also in some cases because of the overlay with low-income housing tax credits, typically we're going to see our HOME funds provided in the form of a loan.

It may be a deferred forgivable loan, but generally, they're reflected as loans. But also, we're thinking about how and when we make our funds available. We could provide some funding for predevelopment done as a grant by the HOME program. Oftentimes, we're going to be providing some or all of our HOME funds in the form of a construction loan.

So we are utilizing HOME funds during the construction phase, as opposed to borrowing that amount through a private construction loan, which tends to be more expensive. We also may be providing funding as that permanent mortgage for that project. Let's talk a little bit about bridge loans. It might be a term that folks are less familiar with.

So in a project, sometimes we have some of our permanent funding sources are not going to be available until a particular point in the project. For instance, on a low-income housing tax credit project, the equity pay-ins will not happen until we have units that are placed in service. And so, a bridge loan could be utilizing our HOME funds to be able to bridge that gap that will then be paid off once those other sources of permanent funding become available for that project. We also could use our HOME funds for credit enhancements as part of that project.

All right. So let's also then talk about the limitations and the caps on the subsidy. They're going to be part of this project. So the HOME program is pretty specific about having minimums and maximums for subsidy. So we always have a minimum of $1,000 per unit. And so, that's an average. So we could have -- on a rehabilitation of an existing structure, we could have some units, doesn't happen very often, but we could have some units that the actual cost for those units was under $1,000. But as long as the overall average is at least $1,000, that will be something that would be eligible.

But we also have maximum subsidy limits that are in place. And as part of our underwriting and our cost allocation process, we're going to be reviewing to make sure that we are going to be within those maximum subsidy limits. So following our notice 16-15, which is our cost allocation process, and also using -- there's a cost allocation tool that's been provided and there's a tutorial that's available on the HUD Exchange.

They're essentially giving you some standard templates and standard methodologies to be able to utilize and that's something that you need to be familiar with on making that determination of what are the minimum number of HOME-assisted units? What's our maximum investment based on those number of units that we can put in the project?

So essentially, when we talked about having our mixed projects where we have some HOME units and some non-HOME units, our cost allocation process and following our maximum subsidy limits will take us through that calculation to determine what's the minimum number of HOME units that we're going to designate based on our funding for this project? And that will set, then, the number of long-term affordable units that are going to follow and be restricted under our HOME requirements.

So let's talk a little bit about our underwriting and subsidy layering. So you, as the PJ, must have underwriting and subsidy layering guidelines in place. And this is really laying out not only what your standards are going to be for things like affordability or vacancy rates, escalation of expenses over time. So these are the sort of projections that you're going to use as you analyze projects' budgets to determine whether you think that what has been provided to you by the developer is actually reasonable.

This is part of your process of determining what's that gap in funding. How much HOME funding is going to be needed by this project for it to be viable, for it to be sustainable. So you're sizing that level of HOME assistance following your underwriting and subsidy layering guidelines.

You're also trying to make sure that there is a reasonable return of profit to that owner/developer, but that you're not over subsidizing them. So it might be that you are going to set up loan terms so that instead of in the long-term providing too much of a profit or return, that you're going to require some of that cash flow to be returned to the project.

One of our key functions here is to look at the financial viability. And our underwriting needs to cover that entire affordability period. So if I have a 20-year affordability period, I'm using my underwriting and those standards that I put in place to project what you think will happen over the life of that project. So you're looking at what you expect the rents to be, not only when you're funding it, but how those rents will change over time.

So hopefully, they're going to be escalating at some rate over time. But also, we're making projections about what do we think will happen with expenses over time? Will they rise at the same pace as the rent or will we increasingly have more expenses than not as rapidly increasing cash flow coming in?

Also things that make an impact on that underwriting is thinking about what will be vacancy be likely throughout that project? And essentially doing a vacancy allowance, that kind of writing down what our expected cash flow is, to make sure that we accommodate those potential bumps in the road over time.

Keep in mind that the market demand for the project, it's a really essential step as part of this process. So depending on the size, the type, the scale of a project, we might be doing a formal market study, which would be professionally done. We would be then reviewing it. In some cases, the PJ will have not only done -- required a project-specific market study, but the PJ might have commissioned a market study overall to look at what are the overall market demands and make some decisions about how they want to prioritize the use of their funding.

But as part of this process, you're reviewing what the market study, what the market information has been provided, to determine is this the right kind of unit? Are they the right numbers? Will they be affordable? Because you, as the PJ, have a risk. You're investing HOME funds. If this project is not completed and does not remain rented as part of the affordable housing supply, then we would have an ineligible use of funding.

So it's a risk analysis that you, as the PJ, are conducting to make sure that we have a viable project, that it's in the right place, and it's going to meet whatever that market demand would be. They're also really depending on the developer, that partner, to bring the appropriate capacity. And that's both knowledge on being able to oversee the development of this project, but also the financial capacity to be able to complete that project.

So these are really important steps on making that funding decision about not only if you are going to fund this project, but what the level of funding would be and what the specific criteria that you would put in place if you were to fund that.

Kris Richmond: Hey, Les, before you move on. Somebody was asking what if there's two PJs that are providing HOME funds? Maybe there's a state and a local PJ putting money in. Is there anything we should consider in that underwriting slide that you just went over?

Les Warner: Well, I think the key here is that they need to be communicating with each other. Both entities that are funding with HOME funds have a responsibility to underwrite and complete their underwriting subsidy layering cost allocation process for the funds that they're investing. But they need to be aware of and understand how the other community's investment is then impacting those calculations. So the first thing would be establish communication with them and work with them on that.

So let's talk about capital needs assessments. So this is something that applies for rehabilitation. This is not for new construction and is required when we have 26 or more total units. So this is not saying HOME units. This is total units in the project. What we're trying to make sure here is that over the useful life of that property, during that affordability period, that as we have calls on capital to make repairs or replacements of systems or components within that building, that we're going to have adequate cash to be able to do that.

So one of the ways that we cover those expenses is cash flow that's available and we have projections based on that in our underwriting. But also using our replacement reserves. So capital needs assessment is essentially looking at that affordability period and making a projection of all of the expenses that will be incurred during that affordability period, what we believe the cost of those replacements will be, and then comparing that to the available cash flow and replacement reserves in place to determine whether this is going to be sustainable.

When that analysis has been completed, if we were to find that there was not going to be adequate capital available to cover those projected calls on capital, we would have a couple of things we could do. We could take some of those components and go ahead and replace them up front as part of our rehabilitation so that they have a useful life that is -- covers our affordability period so we could remove some of those projected expenses.

The other thing we could do would be look at what would be a needed replacement reserve level and then raise our required yearly investments into that. We'd have to have -- that project would have to cash flow adequately to be able to make those investments.

Talk a little bit about the key partners in rental development. In most cases, the PJs themselves are probably not going to be the owners and the developers on these projects. And so, our partners oftentimes are other public agencies. We talked two weeks ago about our community housing development organizations, our CHDOs, and that one of our set aside activities would be the development or rehabilitation of affordable rental housing. So they may be one of our partners, but we also may be working with non-profit and for-profit developers.

Keep in mind that if we are working with the CHDO, as we went into quite a bit of depth in our CHDO session, that the CHDO needs to be acting in one of the eligible roles as owner, developer, or sponsor with one of our eligible CHDO activities. And we would need to make sure that that CHDO had been certified for that project and having adequate capacity at the point that we make that commitment of funding. That's required for us to be able to use that or count that as part of meeting our set aside requirements.

Also, as far as eligible projects, we have some maybe less traditional rental projects. And that would include group homes, transitional housing, and SROs, the single-room occupancy. So keys here would be that the tenant has to have a lease. So they have to have a lease in their name for space. They have to be low-income. And keep in mind that housing cannot be a condition of maintaining housing cannot require that tenant to participate in some kind of a service program.

So it's completely appropriate to have services available, but we cannot make it as part of a lease term that to be able to be eligible to remain on that property that you must participate in those services. So that's something that you may need to scrutinize and review as part of your project eligibility review.

Some things that are not eligible, I think that we would call it facility. So that might be some kind of a drug treatment. That might be specifically where services are part of the condition for occupancy. That would include shelters, dormitories, halfway houses, student housing, specifically is not eligible.

I'm going to talk here, then, about SROs in more details. So we have a number of ways that single-room occupancy units may look. And so, it has an impact on how we are going to set those rent limitations. So keep in mind that you may have local zoning or building code classifications that specifically for your area will designate what is a group home versus what is a single room occupancy, and you need to be consistent with that. So if you have a local designation, make sure you're following that as far as determining what rent structure that you're going to use.

So for single-room occupancy units, if that unit has both sanitary and food preparation facilities, then we're going to use the zero-bedroom fair market rent. If we have five or more HOME units, then we're going to be using the low HOME rent structure, and we'll talk about the program and the project in a just a little bit.

If we have units with either no separate sanitary or food prep facilities or just one of those, we're not going to charge the full zero-bedroom fair market rent. We're going to base it on 75 percent of that number would be, and we will talk more about what are we talking about when we say high or low HOME rents. How do I figure out what those are for my area?

So ineligible projects for rental, we cannot during that HOME affordability period put in additional HOME funds into that project. And so, this is one of the key reasons why we need to make sure that those projects are going to be sustainable. So our capital needs study. Making sure that have adequate reserves in place. Because you, as the PJ, will not have the ability to add HOME funds during that affordability period. We also mentioned about the 1937 act public housing units. It's something we cannot combine our HOME funds with.

Now, here's the sort of exception on that. Our HOPE VI, which is a public housing program, is something that we can combine our HOME funds with that. If there are no public housing capital funds that are being used, the units could be receiving operating funds. They might also receive modernization funds. But they cannot in conjunction with public housing capital funds.

So I would recommend that if you have a HOPE VI project and you have any questions about this, that before you make a commitment on funding, that you work with your HUD field office to make sure that, yes, in fact, this is a project combination that's going to be eligible for you.

Let's talk a little bit about our property standards, and we really have sort of two types of property standards that are going to apply. When we complete a project, we know that we have to bring all of our HOME-assisted units up to standards. And so, we will have a property standard for project completion, but we also will have during the life of the project, during that affordability period, an ongoing property standard, which tends to be slightly less than these sort of as-built standards.

So for rehabilitation, we're going to follow our state and local code. In the absence of state and local codes, then we would defer to the International Existing Building Code. But each PJ is also required to have written rehabilitation standards, and that would include defining what our health and safety standards are going to be for occupied units. It also will lay out what the useful life of all major systems would be.

So as part of your review on a rehab, you would be determining does the furnace have a remaining useful life of -- if my standard is five years, then I will be comparing that, and that would be part of my determination of do I need to replace that or is this acceptable?

Also incorporated in your rehabilitation standards would be compliance with the lead-based paint requirement. Also, our accessibility standard, and that might be 504, but it also may be some visibility or universal design standards that you, as the PJ, have adopted for all of your funded housing.

Also, disaster mitigation standards, if applicable. So if you're in a flood area or a hurricane area, you're going to want to have your property standards also include those standards to make sure that that HOME-assisted housing is going to be better protected from future disasters that would occur.

And then, our uniform physical condition standards, UPCS, deficiencies do apply as part of property standards. And we'll note here that the HOME programmatic knowledge, that they need to provide some additional guidance on how this will specifically be used for the HOME program. But that is part of the mix on the requirements for rehabilitation.

For new construction, little higher standard. It's going to be looking to the state or local code and then again, in the absence of that, instead of looking at the existing property code, we would be looking at the International Building Code or Residential Code on that. Again, we have accessibility standards and we have disaster mitigation standards that are also going to apply.

A couple of things to keep in mind. So for acquisition-only projects, if we were to be acquiring a building that had been constructed within one year of that HOME commitment, we're going to treat that as new construction and inspect it and hold it to the standards for new construction. Otherwise, we're going to be looking at that as a rehabbed property.

And we need to make sure that the inspection documentation is no more than 90 days at the time of when we make that HOME commitment. So in other words, we want to make sure that we have a pretty accurate assessment of what the current condition of that unit is at the point we're committing funds to that.

So if we have an acquisition-only project, so we're not rehabbing it, then we need to know that before we commit our funds, that that project meets our standards. If it doesn't, then it can't be an acquisition-only project. We'll have to include funding to do rehabilitation and bring those units up to standards.

So let's talk a little bit about the PJ's role in oversight for these projects. So for new construction and rehabilitation, you, as the PJ, or someone working on your behalf will need to review and approve all the work right-ups, the plans, the specs. Looking at those cost estimates. You need to make sure that there's an adequate budget, that the proposed final project will meet the required property standards, and that those numbers are cost reasonable.

That might be completed through a procurement process where we're going to go out for a bid on this. In the absence of that, when our federal procurement is not triggered, we need to be able to evaluate those costs and determine whether they're actually going to be reasonable.

There are some required points for inspection. So at that initial stage, when we're developing what that scope of work would be, there needs to be a property inspection that's going to determine what's the scope of work, what would be needed to bring that property up to standard.

And then, as that project is progressing, ongoing progress and final inspection need to be completed by the PJ or someone working on your behalf. And that would include each time that that project wants to draw funding. Someone needs to be inspecting, making sure that the work that's being billed for has actually been completed, that it meets the specifications, it meets the property standard, and that they are actually eligible for the reimbursement that they are requesting. That also needs to be a paper trail that's included in your files to be able to document that that level of oversight has been completed.

Keep in mind that we have some other standards that apply. So with Section 504 for new construction of five or more units or in projects where have substantial rehabilitation of 15 or more units and we define substantial rehabilitation as a rehabilitation that is 75 percent or more of the replacement value for that property, in those cases, we have, under Section 504, set asides for both mobility and sensory.

And so, you, as the PJ, would need to be reviewing those plans and making sure that the as-built projected project will meet the 504 requirement and that you will have, as part of your inspections, making sure that that work was completed appropriately.

Also something that sometimes is forgotten about by folks, when you're doing new construction, this is new construction only for rental, the PJ is required to have site and neighborhood standards and complete a review. So essentially, site and neighborhood standards are looking at what's my -- when I'm making a decision about the construction of new rental housing, what are my standards going to be about the site; about access to public facilities, transportation, jobs? Not placing our new construction units in neighborhoods that are overly impacted with racial concentration, with crime issues. We're trying to provide choice and make really strategic decisions about where make those investments in rental construction.

And so, the PJ needs to have site and neighborhood standards in place and as part of my funding decision, would complete a review in conjunction with those standards for each of those projects. Also, our fair housing requirements are going to apply and then, you, as the PJ, have an affirmative marketing plan that would be in place overall for your program operations. But also keep in mind that for a HOME-assisted project that has five or more HOME-assisted units, there will be a property specific affirmative marketing plan in place.

I'll just point out that there was just a HOME FIRE [ph], and this is volume 14, number 1, that was issued this month, about PJs' responsibilities for developing and implementing affirmative marketing procedures. So if that's something that you have not pulled up and read, I would point that out to you. Just come out within the last week or so and I would really encourage you to make sure you read through that.

Kris, I'm going to suggest -- since it's 1:55 according to my clock, I'm going to suggest we take a 10-minute break and be back at 2:05 Eastern time.

Kris Richmond: Okay. Sounds good. Thanks.

Les Warner: Welcome back from the break. We're going to finish up property standards here and then get into rents and the long-term affordability. So as I mentioned, there are essentially a project completion property standards and then, throughout the affordability period, we have an occupancy property standard.

So for ongoing property standards, the PJ is going to look to your state and local codes, health and safety, the lead requirements that would apply to the property. In the absence of those state and local codes, we'll be deferring to UPCS. And, as I mentioned, the HOME program will be providing some further guidance on what portions, essentially, of that would be used as part of that.

So keep in mind on timing, our rental units need to be occupied within six months of completion. If you have not met the completion -- or the occupancy within six months of completion, HUD will be looking to that project to determine is there an appropriate marketing plan in place? What steps is the PJ taking in conjunction with that project to make sure that we meet our 18-month deadline.

If you fail to meet the 18-month deadline, you're going to have to repay HOME funds. So for instance, if I had 10 HOME-assisted units and eight of them are rented during that time period, but two have not been rented, we would be determining what the corresponding investment of HOME funds was for those two unoccupied units and those funds would have to be repaid. So it's critical to make sure that we know what's happening in that rent-up period that we're collecting that occupancy information and that we really have sized the project appropriately with that local market.

So this is just a reminder of our affordability periods that are going to apply for rental. So based on that average investment per unit, it's going to be 5, 10, or 15 years. We mentioned that if we do new construction, there's an automatic 20-year affordability period. Also, if we are doing refinancing, we have an automatic 15-year affordability period.

And keep in mind that the risk here is, unlike if we were talking about maybe a HOME buyer unit and some funds being recaptured maybe on a proration, if our rental project does not complete that affordability period, the entire HOME investment must be repaid. So it's really critical that we get it right, that these are going to be affordable, that there's a demand for our units.

So when we set our designation of the number of HOME units, that's essentially going to determine that average cost per unit. So if I designate more units as my HOME unit, then my cost per unit's going to be lower. And so, my affordability period's going to be lower. So I'll walk you through a couple of examples.

So in this case, the HOME investment's $240,000 and they have designated five units. It's HOME units within my 10-unit property. And so, we have a 15-year affordability period for this. If I designated eight of those 10 units as HOME-assisted units, because now I have a lower cost per unit average, I would only have a 10-year affordability period. So it makes a difference on how that cost allocation process is done and in some cases, what you negotiate or determine will be the number of HOME-assisted units. You may end up with a shorter or a longer affordability period because it's based on that average.

Let's talk a little bit about how we're going to enforce that affordability requirement. You are required to, during that affordability period, have an enforcement, a legal enforcement, tool in place. That would be a covenant, a deed restriction, or some other method that's been approved by HUD.

That would mean that if that property is sold, transferred, that those restrictions would still be in place. So you may have a written agreement with that property owner, but we need to make sure that it tracks with the property itself so it will continue if there was a sale.

In the situation where we have a property that goes through a foreclosure process and that deed restriction is stripped away by the court system, the PJ would be required to repay any unpaid balances on that. So really important that we have those restrictions in place and that we know if we have a property that's at risk of foreclosure, that we know early and we try to intervene on this.

Let's talk about those rent schedules. So we have both high and low HOME rent limits. These are not something that you have to try to calculate yourself. These are provided annually by HUD. And tenants are going to be given notices of rent increases that's going to be based on these maximums that are set in place.

So we mentioned that one of the responsibilities now is that the PJ will annually review rent schedules and approve. So as rents change over time, they need to be in compliance with our HOME rent limits. They might not increase all the way to what the maximum is. That would be a decision that would be made between the PJ and that particular project as part of your annual review.

These are not set generally as a percentage of an individual household income. So they are set based on our high and low HOME rents based on unit size. Now, keep in mind that our HOME rents also include the tenant-paid utilities. So if my HOME rent limit, let's say, is $600 a month for my one-bedroom unit, if the tenant is paying $80 in tenant-paid utilities, that means that their lease rent is going to be the $600 limit minus those tenant-paid utilities at $80. So the most rent that they can be paying is $520 to stay within that limit such that it includes utilities.

Keep in mind that there are requirements about our HUD utility, how those are going to be calculated. There is guidance on that. You have a couple of options on how those calculations would be made, but they need to be based on actual property occurrences and those utility allowances are going to be updated annually. And that will be part of that review of rents and utilities on an annual basis.

So the HUD HOME rent is based on what's going to be affordable at 30 percent of a median income for a household that's 65 percent of that area or the fair market rent. And essentially, the HOME program makes the comparison between this 30 percent and what the actual fair market rent is, and they will select the lower of the two.

The low HOME rent calculation is a little different. It's based on 30 percent of 50 percent median income for the household. But it also is capped at what the high HOME rent is. And so, in cases where that low HOME calculation is actually higher than the high HOME rent, the high HOME rent will serve as the cap on that.

So sometimes when you see the chart on rent, you will see that the low HOME rent and the high HOME rent are exactly the same. That's based on the fact that the calculation is a little bit different here. So here's an example of a chart where based on bedroom size, we have our designation for our high and our low HOME rents.

So you don't need to make the calculation. It tells you exactly what those are. So in the case where we have a three-bedroom unit and if it's a $120 utility allowance, if it's a high HOME unit, then our maximum rent is the $740 minus that $120 utility allowance. If we're talking about a low HOME rent, it's the $710 HOME maximum minus the $120 utility allowance. And that's how we're going to be determining what's an allowable rent for each of those units.

So over time, the rents are going to go up or down based on adjustment that we're going to make based on income changes for those occupants. And one of the protections in place is that the HOME program does not require that those rents actually go lower than what those initial rents were at the point that we made the agreement to fund that project.

So for instance, if in 2014, when we funded the project, our two-bedroom high HOME rent was $600, the fact that in 2016, it's actually $550; we can't require the owner to lower those rents below what that initial rent was. So on an annual basis, the PJ's going to be providing the rents to owners and managers. And as part of that process, the PJ then will be reviewing and approving the rents that will then be utilized as leases come up for renewal and they are recalculating what incomes are making determinations on new rents.

So let's talk about we have two rules that actually apply here. We have a program rule and a project rule. So the program rule is at the point that we are placing units into service, so this applies at initial occupancy, and the rule is that 90 percent of the households that are assisted, and that's both HOME rental and also TBRA, have to have incomes at or below 60 percent.

So we know that HOME itself would also us to go up to 80 percent income. But in this case, at initial occupancy, 90 percent of our units have to be rented to folks at 60 percent and below. So we're trying to give those with a little lower income sort of a first shot at establishing occupancy in these units.

A lot of programs have decided, based on this rule, to say instead of trying to track this 90 percent, is to just say all units for rental and for tenant-based rental assistance at initial occupancy will be restricted to 60 percent and below. But this gives you some flexibility.

The project rule applies over the life of that project. So it is not just at initial occupancy. And the project rule applies when you have five or more HOME-assisted units. We have five or more HOME-assisted units, then 20 percent of those units are essentially set aside and going to be made affordable for households at 50 percent.

And this is our minimum. So you could, as the PJ, determine that, based on needs and that local housing market, you want to set more of those units that are going to be affordable at 50 percent and below. That's fine. But the project rule sets a minimum percentage. These are going to be appropriate units for households based on our gross income. And so, if we have -- our -- they're going to be occupied by households at 50 percent and below, be charged a low HOME rent. So it's going to make it a little bit more affordable for those units.

So this makes it a little bit of a challenge on making sure that property managers understand what rule applies and when. So our program rule is for initial occupancy. So it's going to be more restrictive. So in this case, with a 10-unit structure, we have to have 90 percent of those, or nine of those units, are going to be occupied by folks at 60 percent and below. And we have a program rule that would then require that two of those units, or 20 percent, be for households at 50 percent and below.

After we get passed the initial occupancy, that 90 percent, 60 percent falls away unless you have chosen to be more restrictive. Keep in mind that also includes -- tenant-based rental assistance is also falling under that program rule 90 percent requirement.

So we've mentioned before about income. I'll just revisit it here. We have two methodologies under the HOME program. We have the Part 5 Section 8 income definition and we also have the IRS form 1040 definition. And essentially, our definition is saying -- telling us what do we count, what do we not count as we our income-certifying households?

Under the 2013 rule, as we mentioned, you are required to have at least two months of source documentation. So that would be things like pay stubs would be evidenced in that file. So at initial occupancy, we will do a full income certification for a household. And then, annually, those incomes will be reexamined.

So we have a couple of ways that we could do that. We have a little more flexibility after the initial occupancy. We can look at two months of source documentation. We could get a written certification from that family. So essentially a self-certification of number of household members, what their gross income is, and compare that to our income requirements.

But we also might have households that have already been certified by another means-tested government program. So for instance, if we have a household that was receiving a project-based subsidy, that other government program has already verified that they are by definition income-eligible.

So we can do that in those off years, but keep in mind, at initial occupancy, and then every sixth-year of the affordability period for that project, source documentation must be reviewed. In some cases, projects have simply said let's just do source documentation every year so we don't have to calculate which rule applies when. But you do have a little bit of flexibility.

All right. So this is just a graphic to help you think about this process. Everyone at initial occupancy will be utilizing source documentation. For those non-initial and non-sixth year of the affordability period, there's a flexibility, these other options. But any time we have someone move in, so we have -- in the fifth year, we have Mrs. Jones moving in, we're going to do source documentation.

The following year, which is the sixth year of the affordability period, we, again, are going to use source documentation. So Mrs. Jones, once again, will be recertified using source documentation. And then, again, on our 12th year, on our 18th year of the project, we would have the minimum requirement of that source documentation verification.

So a little bit about HOME leases. They need to be for at least one year. They need -- they cannot contain any of the provisions that are blocked. The provisions essentially are requirements where they would give up some of their legal rights. The owner may terminate tenancy within 30 days of giving notice under certain conditions, but keep in mind you may have other state or local requirements in place that may have an impact on what those requirements are going to be.

And you, as the owner, need to have a written tenant selection policy and procedures in place, which will talk about how will I select the next occupant for these units? So that's going to be based on your local housing needs. It may be that you have some preferences that have been put in place. Keep in mind that you've got an affirmative marketing plan in place, either PJ-specific or it could project-specific, that would also need to be included in that tenant selection process. And of course, we have restrictions on who can live in what units based on our program and project rule and other funding sources within that project.

Also note, you cannot block someone from occupancy because they are coming to you with a voucher or they're a participant in the tenant-based rental assistance. They are eligible to occupy your HOME-assisted unit.

There are some cases where there could be some additional tenant selection criteria restrictions. Generally, you're not able to limit eligibility for occupancy based on disability, but there are cases in which if not having access to the services that are being provided in this project would keep a member of a disability group from being able to maintain or obtain housing or without having those services available, that can be a eligibility criteria.

You cannot require the family to accept the services that are made available and you would have to make that housing open to everyone within the disability community that met the specific requirements for the services being provided for that property. So we couldn't essentially set aside units for one specific sector of the physical or developmental disability community.

A couple notes about VAWA, so the Violence Against Women Reauthorization Act. And essentially, VAWA is protecting applicants or tenants that are survivors of domestic violence, dating violence, sexual assault, or stalking. And so, the PJ themselves are required now to have an emergency transfer plan in place. You have to allow tenants to either transfer on the same property when that's going to be safe for them or assist them to identify another HOME or trust fund property that would provide affordable housing for them.

You could, as the PJ, include in your emergency transfer plan, using tenant-based rental assistance to assist households essentially to find affordable housing. And as part of that, you have the ability to bifurcate or essentially split the lease. So you would evict the abuser, but allow the victim to remain in affordable housing.

So I'm going to, at this point, talk just a little bit about unit mix. I think, actually, I'm going to turn this over to Kris at this point. You're right. Our numbers are a little bit different here.

Kris Richmond: Yeah. I think the cutting happens a couple times. So this is still in your section, but I'm happy to talk about it if you want me to.

Les Warner: I'll handle it, then. All right.

Kris Richmond: Okay.

Les Warner: So through the life of our project, through that affordability period, whether that's 5, 10, 15, or 20 years, the PJ and the project owner will have to make sure that they keep that project in compliance with the rent and occupancy requirement. So we're never going to require a tenant to move out. So we're going to take appropriate action when they are available.

So as we do our income recertification and we are renewing leases, we may be able to redesignate the units between high and low HOME units and adjust rents in that way. In some cases, when we have a unit that empties out, based on maintaining this affordability mix throughout the period, would be a determination of who is the next tenant? Does this need to be another low HOME unit to bring us back into compliance?

So throughout that affordability period, the project owner has the responsibility of overseeing what the requirements are on the unit mix and affordability and making sure that as they have the opportunity, that they would take the appropriate action. And we will talk through this in kind of a more detailed as we finish up today's session.

So one designation you need to understand is a concept of fixed or floating unit. So this is a decision that the PJ will make on essentially how they're going to designate their HOME-assisted units. If we designate them as fixed units, that means that the same specific units will always be my HOME-assisted units throughout the affordability period.

But the HOME program also provides the option or, really, flexibility, of designating these as floating. So if I have -- let's say I have eight HOME-assisted two-bedroom units, I can have that designation float amongst all of the comparable two-bedroom units on my property. So over time, where my HOME-assisted units are actually located will be a bit different as my tenant mix and incomes change over time.

So that's a decision that the PJ needs to make on the front end, and that would be included in that written agreement, that this property owner understood, essentially, how that designation has been made. So we could designate specifically which of these units -- we might say 3A and 2B are going to be my HOME units with a fixed project. Those would always be my HOME-assisted units.

With a floating project, it may be that at one point in my projects, 3A and 3B are my HOME-assisted units. Maybe over time, 3A and 1B are my HOME-assisted units, because I've allowed them to float amongst like units. So the key here is that our floating units have to be comparable. Generally, we're looking at the number of bedrooms, but also, they would have comparable amenities and generally be roughly in same square footage.

Particularly in existing rehab projects, sometimes we have some variance between actual square footage that's modest. That's okay. Generally, we're looking at the number of bedrooms as our factor on this. So we're going to make that designation in our written agreement. We're going to specify the number of HOME units, the sizes of that, and then over the life of that project, whether they are fixed or floating will determine what we are going to expect to see as we monitor that project over the life of the project.

All right. We're going to hand this off. I'm going to have Kris take over. So Michael, if you want to end the recording and then restart the recording that would be excellent.

Kris Richmond: Great. Thanks, Les, for going through all that material. It's a lot of information. Now, we're going to go through different examples of keeping the unit mix, but first we need to understand some of the language so that we're all on the same page. So these are different terms that we're going to use. HOME-assisted unit, remember these are the ones that were following the HOME rules.

We talked about this in one of our first couple sessions. A market rate unit, this is the unit that's not been assisted with HOME money. It's most likely being rented at a higher rent. We might call it the firm market rent, but we refer that as our market unit. And then we have our unit type. Les just went over fix or floating. For each project you will decide whether it's fixed or floating. Okay. It will always stay one of those designations, that fixed of floating, during the affordability period.

We have our HOME rents. Remember we have the low HOME rent. One of the questions that came up, somebody was asking, how do I know when there's a low HOME rent? Well, if you have five or more HOME-assisted units, then 20 percent of those units have to be designated as a low HOME unit, and that means we'll have tenants with incomes that are at or below 50 percent of area median income residing in those low HOME units. So our low HOME rents include our tenant-paid utilities; right?

So we need to make sure, if our tenants are paying utilities on their own, that we subtract that amount from the published low HOME rent, and then they would be paying that rent. So just remember that the HOME rents include tenant-paid utilities. Same for the high HOME rent. So high HOME rent we have tenants who are at or below 80 percent of area median income residing in those units. And then just for simplicity, because we have a number of examples here, we're just assuming that we're using HOME funds. We're not concerning ourselves with the tax credit or CDBG program at this time.

Okay. A couple other categories to refer to. When we talk about very low income, those are tenants that are at or below 50 percent, and those are the ones living in my low home units. We have low income in the HOME program that's at or below 80 percent, and those are tenants living in my high HOME units. And any tenant that's over income would be households that are over 80 percent of area median income. We have our original tenants, and then we have new tenants that are moving in. So just some terminology.

A couple overarching points. When we determine how many units we're going to have, this is all done during the underwriting process. It's going to be identified in our written agreement. We're going to say how many HOME units we have, how many market units we have, whether they're fixed or floating, how many high, how many low. We're also going to designate a number of bedroom sizes, so how many one-bedroom, two-bedroom, three-bedroom sizes. We're going to make sure we keep track of all that.

We need to be sure that we are never displacing anybody. We're never going to make somebody move out because they're over income. We are going to make them pay more rent. In some cases they may be paying more than a market rent unit, and that's because we would like them to be able to move out. We're never going to force them. We're never going to ask them to move out. So we're not going to do that, but that's just something else to keep in mind.

Let's see. Couple other points here. For low income, someone in a low income unit, we're never going to change that identification until we've had another low income -- another low HOME unit put back online. Let's see. Some of these -- these are going to be a little more clear when we go through some of the examples. So I'm going to hop over to the next slide because we have limited time here.

All right. This slide right here I'm going to change the screen, and you're going to need to be able to scroll down yourself. It's kind of like when we did the examples. If I scroll down, you don't see my screen, but when -- but you need to scroll down. So the first page of this is the managing rental mix under HOME, and it goes through different scenarios, fixed and floating, low and high HOME, what do we do when someone is over income. So this is the chart version. This was the RHC, Rental Housing Compliance Unit Mix handout. It was part of the documents that were in the Dropbox. I did put the link in the chat box, and hopefully you saw that when you first got on with us this afternoon. You were able to print it out.

This is the exact same information on the second page in the flow chart form, and the flow chart -- I'm a visual person. So I'm going to refer a lot more to the flow chart. Hopefully, you can see this okay. On the left-hand side I'm going to refer to this color as gray. In the middle it's purple, and on the right it's green. So I'm going to keep going back to this document as we go through the examples, and hopefully you've printed it out too. If not, you can do it after the session.

So when we go back to this screen here again on our training slide, you'll see this is exactly the same as the chart that we have. Okay. So this really talks you through what to do when somebody is over income and we're going to do our different examples and I'm going to go back to this chart to help us walk through it but just doing it in a vacuum is sometimes a little confusing. This is exactly the same as the flow chart, but it's in written form. So let's go to an example.

Okay. So I've moved us up to slide 240 to help us get to an example so we know what to do. Okay? So our first example is a low HOME unit for somebody who is above 50 percent but below 80 percent. And remember, in order for someone to have moved into that low HOME unit, they had to have an income that was at or below 50 percent. So when they moved in, they were income-qualified. Perhaps they have lived there a year. We are now recertifying their income, and we've determined that this household is now at 60 percent. So they are above that 50 percent level, but they're still considered low income because in the HOME program somebody who's at or below 80 percent is still low income. So let's figure out where we are in our chart. All right.

So remember. We're going to look back here again in our chart. So we are dealing with someone who was in a low HOME unit, and their income is still -- it's above 50 but it's below 80. So in my chart I'm going to be looking at this left-hand side here. Can everybody see that? So we're looking at low income between 50 or 80. This is the side of the chart that we want to refer to and want to do for our steps. Okay. So let's go back to here. So we're looking at that left-hand side, and we need to -- we're not going to change this person's rent until we have another low HOME rent -- a low HOME unit available for somebody.

And so looking right here we are not going to change their rent until we have another one to move. So this is our same example, and perhaps we've recertified everybody's income and remember this person here, they're at 60 percent. Okay. So they're still at or below 80. They're still low income, but this household down here, when we recertified their income, we found out that their income is now at or below 45 percent AMI. So now, this household right here is eligible to be considered a low HOME unit. So when this household has been identified as a low HOME unit and only after I've designated this as a low unit can I then change this first household rent to a high HOME rent. So right here we have slots below in the high HOME designation units. Okay.

All right. So let's move on to example two. So example two we are in a fixed low HOME unit, and the income rises above 80 percent. Okay. So let's go back to our chart to try to figure out -- let me erase this. Let's see. Erase only additions. Okay. So example two is a fixed low HOME unit. Income rises above 80. Okay. So I'm now looking at the right-hand side.

I'm on the right-hand side of my chart here, and I am fixed. So I need to find fixed. So here I'm looking at the purple right here for my directions -- okay -- because I'm in a fixed low HOME unit, and they've risen above 80. So what am I going to do? Let's go back and look at our slide now that we know which directions we need to follow. Remember we're in that middle of the chart, the purple part of the chart.

So this tenant here who is now over 80 percent -- they're at 85 percent -- I am going to adjust their rent. Their rent is now going to be 30 percent of their adjusted income; right? And there is going to be no cap to that, if the law allows that, and the reason is because we may -- we want this household to eventually move out, and their income may actually be higher -- I mean, their rent may actually be higher than this unit next door to them, which is the market unit. And the reason is that, because when we're in fixed, we can't change our HOME units. We can't swap those around.

So we want this household to eventually move out, and if they end up paying more for this unit than the unit next door, this market unit -- maybe the market unit has a fireplace. Maybe it overlooks the pond area. Maybe it's a little nicer, a couple more amenities. They're going to want to move to that. So we are going to adjust their income immediately, and it's -- I mean, we're going to adjust their rent immediately, and it's going to be up to 30 percent of their adjusted income.

And then we are going to check our high HOME units to see if any of these tenants' incomes have changed, and if that's the case, then we might be able to change one of these high HOME units to a low HOME unit. If, for example, one of these units becomes available, these don't help me -- okay -- because remember in a fixed situation, these units right here that have the H's and the L's are my HOME units and they always have to be the HOME units for the entire affordability period. So these other market units right here are not going to help me if somebody moves out to get back in compliance.

So back here at example two we may be temporarily out of compliance until this household moves out, and if one of these households moves out, the new household that moves in, we're going to change that to a low HOME unit because we want to make sure we get our low HOME units back online first. And then when this household eventually moves out, we need to check to see how many highs, how many lows do we have, if this ended up changing to a low and this person eventually moves out, then that would be my high HOME unit. Okay.

Let's move on to example number three. So three we're still in a fixed and we're still at high HOME unit rises above 80 percent. Let's again look back at our chart. We are still at fixed. So we're right here in the middle. Fixed units and we are going to -- so we're taking the same steps as we did for example number two. Let's take a look at this one. The first thing we're going to do is adjust their rent to 30 percent of their adjusted income.

So we're going to increase their rent. That's going to happen right away. Remember there's no cap. They might be paying more than market rent, and we're going to be temporarily out of compliance until this household moves out because remember we have eight HOME units in this example, and if this becomes available or this becomes available, it doesn't help me because these units here can never be HOME units because I'm in a fixed situation. These units right here are always my HOME units.

All right. So let's look at example number four. So example number four, I'm a floating low HOME unit that rises above 80 percent. Let's go back and look at our chart again and see which part of the chart I am going to be looking at. My example number four was low HOME unit. Rises above 80 percent. So I'm floating. My example says I'm floating, and I am above 80. Okay. So I'm in this green chart here. This is the part of the chart. The far right side, the green side is where I'm going to be looking for what do I do. How do I handle this household that's now over income?

Okay. So we are going to adjust their rent. They're over 80 percent. So they are going to pay the lesser of 30 percent of their adjusted income or the fair market rent. Okay. So this is the -- it was different than fixed. Remember fixed they were going to pay 30 percent of their adjusted income, and it might have gone over market rent. But in this situation, because it's floating, we are going to cap it. So it's going to be the lesser of 30 percent of their adjusted income or fair market rent is what this household right here is going to pay as the lease permits. And then we -- the next available unit, whether it's market or a high HOME unit, is going to turn into my low HOME unit. Let's see if there's an example here. Okay.

So remember this person's over 80. So they are now paying a higher rent. They're paying 30 percent of their adjusted income or fair market rent, whichever is less, and this, when we started was a market unit. Okay. And so that person who was in the market unit moved out. It became available, and we needed to ensure that the new household that moved in was going to be income-eligible and they are at or below 45 percent.

And so we've identified that as our low HOME unit. Now, remember we have eight HOME units. Okay. So we need to count one, two, three, four, five, six, seven, eight. This is now my market unit. We were allowed to do that because we're in a floating situation, and when we float, we can float the designation of our HOME units throughout our project.

All right. And we have another example here. I think this is our last example, example number five. And we are doing floating high HOME unit, rises above 80. So let's go back to our chart here, and again, we are still on the far right side because we are floating and this time somebody was in a high HOME unit. I guess the last example they were in the low HOME unit, but it's still -- we're still following the same requirements. What are we going to do?

This person is now over income, and they are going to pay the lesser of 30 percent of their adjusted income or the fair market rent. Okay. That's going to be capped because we can make one of these units over here a HOME unit, if there's an income-eligible tenant living there at the time or when that becomes available. Okay. So the next available market unit we're going to have somebody come in who's going to be at or below 80 percent because we already have our two low units. It's a high unit that I'm missing, and I had six high units, and so we can make one of these our high HOME units.

Do we have a picture of that? Yeah. Here we go. So here one of my market units became available, and so we targeted that to somebody who was at or below 80 percent. That household ends up being 60 percent. So that's going to be my high HOME unit. This is now my market unit, and I still have my eight HOME-assisted units, one, two, three, four, five, six, seven, eight. Okay.

All right. So that's a lot of examples to go through. I do want to refer you back to this chart again. Take a look at this when you're back in your office and you don't hear me talking, and then remember, if you are a -- or person -- like I said, I'm a visual person. So I'm really good with charts and spreadsheets. If you are someone who really enjoyed word problems doing -- when you were doing math as a student, you might want to refer to the other side of this chart, which is exactly the same information, but it's just written out in word form. Okay. So whichever type of method speaks to you, refer back to these, and these will really be hopefully helpful to you if you're the monitor and you're starting to review these and try to figure out how to get your units back into compliance.

All right. So you have to monitor your rental projects every year. You are going to be checking for rent and occupancy. This is something that you will ask the owner to send you a list. Send me the list of the rent, the tenants that are living there. What are the rents that they're paying? What's the income that you reviewed? Send me your information about whether you've inspected those units or not. So you want to have information to be able to review from your desk. And then you're going to be going on site occasionally to look at these units as well. We have a slide couple minutes. So we'll talk about that.

You are able to charge for monitoring fee for projects that were funded after August 23rd, 2013. The reason for that is because those fees needed to be part of your original underwriting. So you cannot charge a fee for your old portfolio, but for any projects that are funded after August 23rd, 2013, you can charge a nominal monitoring fee.

The owner also needs to provide an annual certification to the PJ that each building and all HOME-assisted projects in each project are suitable for occupancy. So that was also new with the new rule change. So this is a certification that owners need to submit to the PJ annually. These things we're going to talk about the next couple slides. Let's move on here.

So the new rule change also clearly identified when you needed to conduct inspections, when the PJ has to conduct inspections. They need to have inspection procedures in place. You need to have checklists and also identify what you're going to be doing on your inspections, and then have procedures for how you're going to train and certify inspectors. That's something that you're going to be undertaking. How are you going to be certifying them? What kind of training? This all needs to be part of the procedures.

And then the frequency of how often the PJ is going to review these doc- -- these units on site also changed with the rule change. Again, and these are minimum requirements. You can also go more often, if you want to. If there's issue, you definitely want to go more often, but these are minimums that HUD set with the new rule change. So you have to go once within 12 months of completion. So that's required. And then you need to go at least once every three years thereafter.

So it doesn't matter on the number of HOME units. The old rule used to depend on how many units you had to how often you went. That's been changed. It's now once within the first 12 months, and then every three years you have to go. And remember I said you can go more often, but this is what the rule has changed to.

And then if you have identified any health/safety issues or there's other problems identified, you need to go more often, and that should be part of your procedures. That should be outlined in your procedures. I know when I used to work for a city, the tenants had no problem calling us because they knew that the city had funded their -- that project and so they would call the city and they'd complain about something. And so there's always -- there's always notification somehow from the tenants if there's some health or safety issues. You need to make sure you go out there more often.

There are now sample sizes that need to be identified. So if you are working in a project that has one to four HOME-assisted units, all of those units must be inspected 100 percent of those units. If you are working in a HOME project that has five or more units, then at least 20 percent of the HOME units in each building but no fewer than four in each project need to be reviewed. You need to have that statistical valid sample.

HUD is going to provide more guidance, but like I said, at least 20 percent of the HOME units in each building and no fewer than four in each project should be reviewed. If there are any deficiencies that you found, you need to make sure that you have a follow-up inspection that happens within 12 months, and if there were non-hazardous deficiencies -- maybe a window needs to be fixed.

Maybe there was an issue with a door -- non-hazardous deficiencies, a third-party inspection could occur, and you could receive documentation to ensure that the work was completed. Perhaps there was an invoice. The owner paid somebody to fix the window or fix the door, and they send you the invoice for that and showed that it was inspected. So if a third party did that review and inspection, that could be accepted as well.

All right. Projects with 10 or more HOME-assisted units now require a financial oversight, and if there are any issues, you need to make sure that you are doing more frequent reporting and monitoring. You could provide some technical assistance, and you can assist in identifying additional non-federal funding or another appropriate owner, if it comes to that.

You want to conduct this financial review to determine continued viability of the project, and the purpose is really to identify projects really that might have problems that could impact the validity of the project. You want to review the operating budget and -- that was provided, and you want to review that operating budget that was provided at development time. And you want to review that compared to how they're doing now. They said they were going to do X, Y, and Z. Are they actually doing X, Y, and Z? So that's part of that financial overview and oversight. There is going to be more guidance provided to you from HUD in the future too to assist you with that.

The new rule also added flexibility, if it's determined that an on-site manager unit is required, perhaps for the stability of that project. Maybe there's been a lot of police called in. You can use that as documentation that there's been a lot of copies of the police reports to show that you need to have somebody on site there all the time. In order for this to happen, the project has to be 100 percent HOME-assisted, and we need to ensure that the maximum per unit subsidy limit has not been exceeded. So this is after you reduced one of those units, you need to make sure we haven't exceeded that maximum subsidy limit. So that review needs to happen again.

And then we have troubled projects. So a PJ may take steps to address troubled rental projects before they completely fail. HUD defines a troubled project by one that has the operating costs that significantly exceed their operating revenue. That's how HUD defines a troubled project, and this does require HUD headquarter's approval.

So a PJ can request to HUD that they want to put in additional funding and maybe they want to reduce the number of units or maybe they need to put in more funds. Either way it does need review from HUD quarter's approval. The PJ should be working with their field office to assess if these options are going to work. This is something that the field office should be well aware of. They shouldn't be surprised by this, if you start to ask and need to have additional funds or to reduce the number of HOME units in your project.

Okay. Les, that was a lot of information in 30 minutes. Is there any questions or things we need to clarify in the last couple minutes.

Les: No. We have cleared the Q&A at this point. I think we just should take this moment to remind folks that tomorrow, for the first 30 minutes approximately of our office hour, we are going to cover chapter seven, which is tenant-based rental assistance. And then we will be able to revisit some of the information that's been covered today and those kind of common questions on that because this is a lot of information to try to deal with and take in, particularly for folks that are new.

Kris Richmond: Great. All right. Well, thanks, everybody. We will see you tomorrow. There is no homework. So please don't feel that you missed the homework assignment. There is no homework. Like Les said, we'll spend some time talking about TBRA, and then please come with your questions. We know this is a lot of material to cover, especially in a webinar-based format. So please come back tomorrow, and we'll answer your questions. Thanks, everybody. Bye.

Les: Thanks.