



HOME-ARP Rental Compliance Primer

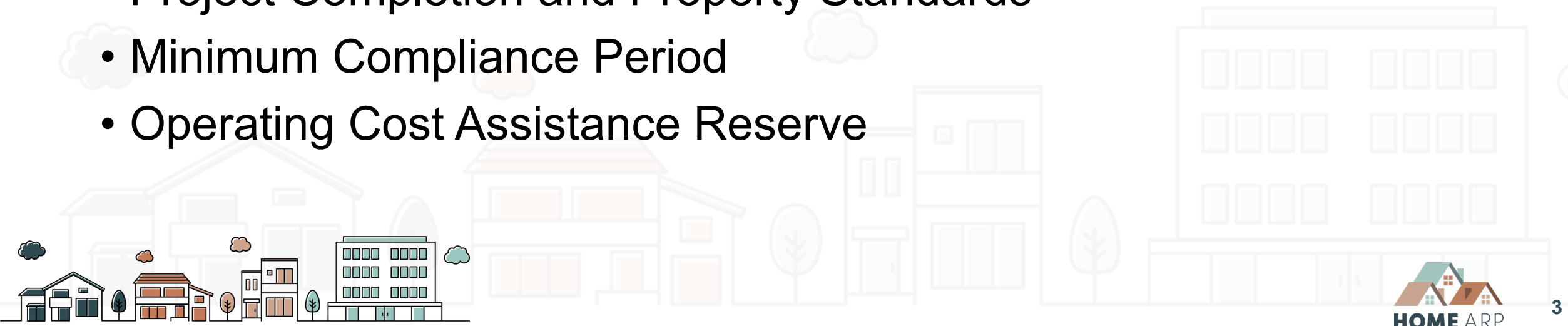
Presenters

- Alex Pereira, ICF
 - Alex.Pereira@icf.com
- Les Warner, ICF
 - Les.Warner@icf.com



Agenda

- PJ Oversight and Management
- Rental Housing Targeting – Qualifying Populations and Low-Income Households
- Tenant Protections
- Tenant Selection
- Project Completion and Property Standards
- Minimum Compliance Period
- Operating Cost Assistance Reserve



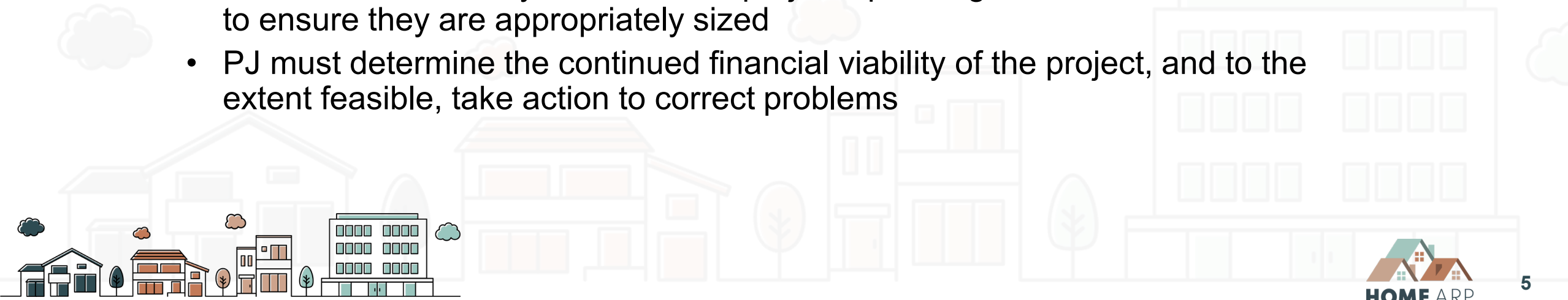
Learning Objectives

- Understand basic HOME-ARP rental housing requirements
- Describe the Participating Jurisdiction's (PJ's) responsibilities to ensure proper monitoring and oversight of HOME-ARP rental housing development projects



PJ Oversight and Management

- PJ is responsible for day-to-day management and oversight of HOME-ARP
- For completed HOME-ARP rental housing projects, the PJ is responsible to ensure the following:
 - Project complies with occupancy targeting, rent and income requirements, and tenant protections
 - More detail on targeting on the next slide
 - Project complies with HOME-ARP property standards including ongoing property condition standards
 - No less than annually must monitor project operating cost assistance reserves to ensure they are appropriately sized
 - PJ must determine the continued financial viability of the project, and to the extent feasible, take action to correct problems



Rental Housing Targeting

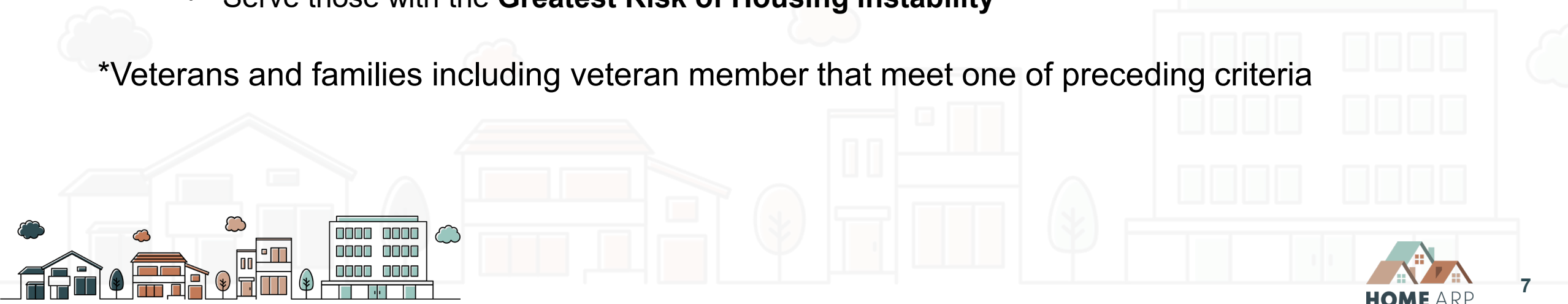
- Not less than 70% of total HOME-ARP rental units assisted by PJ across the entirety of its HOME-ARP grant must be restricted for occupancy by qualifying households (at the time of their initial occupancy)
 - Qualifying Population (QP) units
- Not more than 30% of total HOME-ARP rental units assisted by the PJ may be restricted for occupancy by low-income households (24 CFR 92.2)
 - Low Income (LI) units
 - Proportions in individual projects may vary, but LI units are only allowed in projects that also have QP units restricted for qualifying households



Qualifying Populations

1. Homeless (McKinney Act definition at 24 CFR 91.5)
2. At-risk of homelessness (McKinney Act definition at 24 CFR 91.5)
3. Fleeing/Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking
 - Definitions from VAWA regulation at 24 CFR 5.2003, except
 - Human trafficking definition from Trafficking Victims Protection Act of 2000
4. Other Populations where assistance would:
 - **Prevent the family's homelessness**; or
 - Serve those with the **Greatest Risk of Housing Instability**

*Veterans and families including veteran member that meet one of preceding criteria



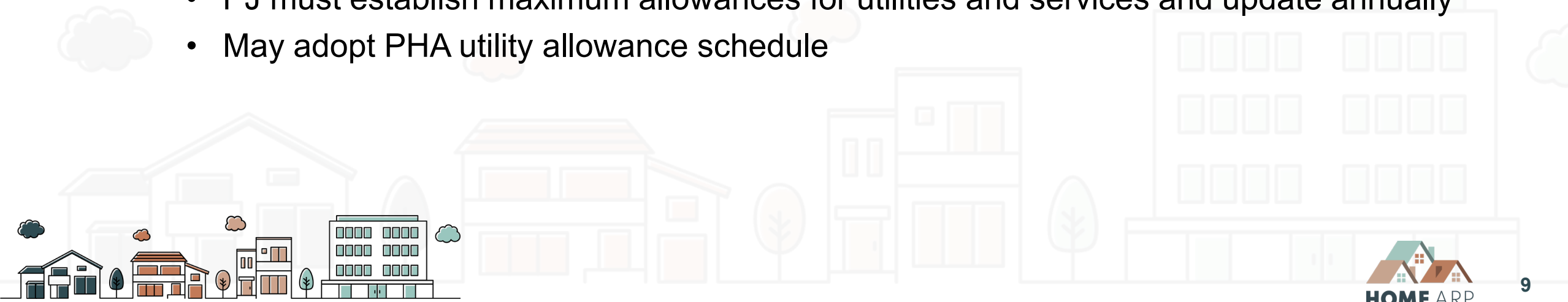
Eligibility: Qualifying Households

- Qualifying households are eligible based solely on meeting one of the HOME-ARP definitions of qualifying populations
- Initial income determination of household income not required to be eligible to occupy QP unit, except:
 - As necessary to determine affordable household contribution to rent or
 - To establish eligibility for another funding source (e.g., LIHTC)



Rent Requirements: Qualifying Households

- HOME-ARP rent cannot exceed Low HOME Rent
 - Except – If project receives project-based subsidy OR the household receives tenant-based subsidy, then rent is the allowable rent under subsidy program
- If project consists of SROs, maximum rent is:
 - Zero-bedroom FMR if SRO includes sanitary and food prep
 - 75% of zero-bedroom FMR if SRO only contains sanitary facilities
- Rent limits include rent plus the utility allowance
 - PJ must establish maximum allowances for utilities and services and update annually
 - May adopt PHA utility allowance schedule



Contribution to Rent: Qualifying Households

- PJ must establish policies and procedures for determining a reasonable contribution to rent
- Tenant contribution to rent must be affordable to qualifying household based on income determination throughout Compliance Period.
- At initial intake:
 - If a QP household's eligibility includes an income requirement, the PJ should use that initial income determination to calculate tenant contribution to rent.
 - If a QP household's eligibility does not include an income determination, the PJ should use information collected at intake to determine a reasonable contribution to rent



Contribution to Rent: Qualifying Households

- Each subsequent year, PJ must examine income to determine rent contribution following Section VI.B.12.a requirements
- Must use Part 5 definition of annual income definition as defined in 24 CFR 5.609
- Rent contribution must be determined using 1 of 3 options
 - Two months of source documentation
 - Self-certification (income & asset sworn statement)
 - Written statement from administrator of government program
- At least every 6th year of affordability period, use source documents



Contribution to Rent: Qualifying Households

- If household is NOT receiving project or tenant-based rental assistance and cannot contribute any/sufficient income toward rent, project owner may draw from operating cost assistance reserve
- If operating cost assistance reserve was not capitalized at project completion PJ may subsidize rents by providing:
 - Ongoing operating cost assistance to cover deficit of units restricted for qualifying households
 - HOME-ARP TBRA or Supportive Services



Occupancy Requirements: Qualifying Households

- Unit must be occupied by household that meets definition of qualifying population at initial occupancy
- Unit remains compliant irrespective of changes in household income as long as unit is occupied by the qualifying household
 - At recertification, if household income is above 50% of area median income but at or below 80%, the household rent increases to the High HOME rent



Eligibility and Income Determination: Low-Income Households

- Must be occupied by household that qualifies as low-income at initial occupancy and each year throughout the compliance period
 - Income determination process conducted in accordance with HOME requirements at 24 CFR 92.203(a)(1)
- Income determination used to determine household's initial and ongoing eligibility and contribution to rent
 - Increase in tenant income may result in temporary noncompliance
 - PJ is required to take action to maintain rent and unit mix



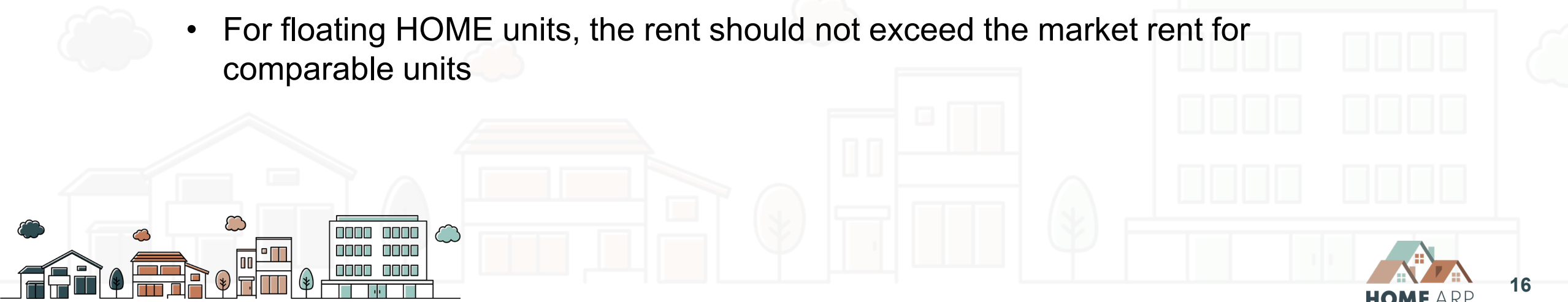
Rent Requirements: Low-income Households

- Rent cannot exceed High HOME rent limit
 - Except – If household receives tenant-based subsidy then rent is the allowable rent under subsidy program
- If project consists of SROs, maximum rent is
 - Zero-bedroom FMR if SRO includes sanitary and food prep
 - 75% of zero-bedroom FMR if SRO only contains sanitary facilities



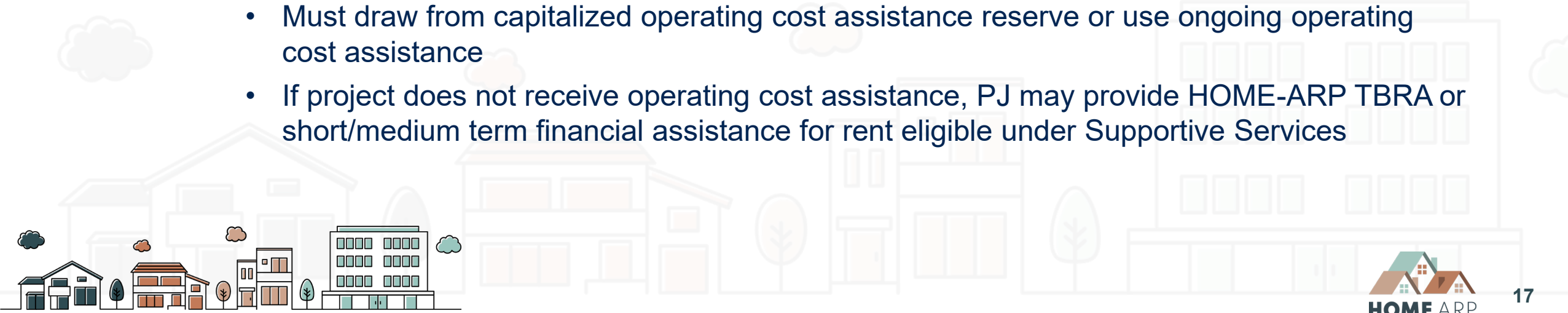
Over Income Households

- **Qualifying household** whose annual income at the time of recertification is above 50% AMI but below 80% AMI must pay the High HOME rent (92.252(a))
- A household that was **low-income** at initial occupancy whose income goes above 80% AMI must pay rent that complies with 24 CFR 92.252(i)(2)
 - Typically, this is the lesser of
 - Amount payable under state or local law
 - 30% of the family's adjusted income
 - If the unit is LIHTC, the rent charged should be in accordance with 26 U.S.C. § 42
 - For floating HOME units, the rent should not exceed the market rent for comparable units



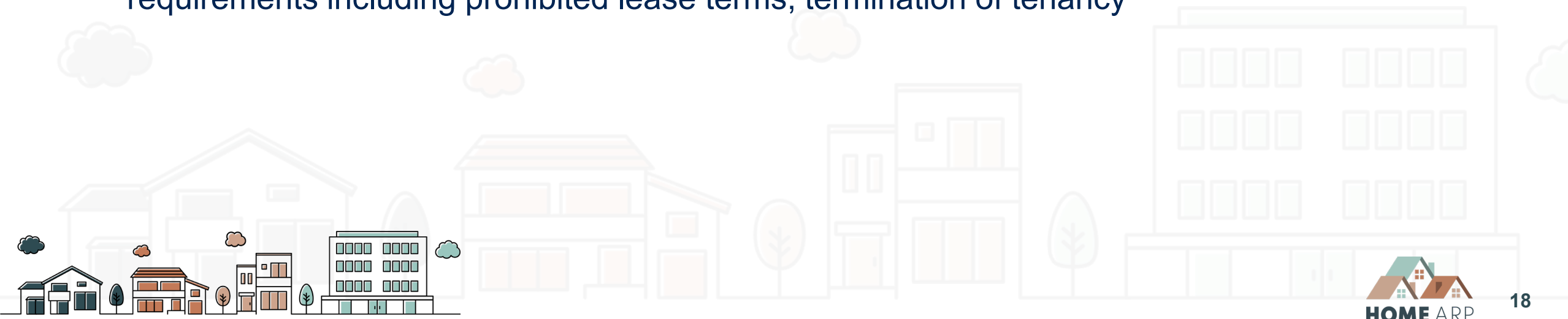
Tenant Protections

- All HOME-ARP assisted households must have an executed lease that complies with HOME-ARP tenant protections. The lease cannot:
 - Contain any of the prohibited lease provisions in 24 CFR 92.253(b)
 - Terminate tenancy or refuse to renew lease of tenant of HOME-ARP unit except for serious or repeated violations of lease terms/conditions, applicable Federal, State or local laws, other good cause
 - Terminate tenancy or refuse to renew lease with qualifying household for inability to pay rent during compliance period, when HOME-ARP funds operating cost assistance or an operating cost reserve
 - Must draw from capitalized operating cost assistance reserve or use ongoing operating cost assistance
 - If project does not receive operating cost assistance, PJ may provide HOME-ARP TBRA or short/medium term financial assistance for rent eligible under Supportive Services



Tenant Protections: HOME-ARP Sponsor/Master Sublease

- PJ may permit housing sponsor to execute sublease or master lease with a project owner
 - HOME-ARP sponsor is nonprofit that provides housing or supportive services to qualifying households and facilitates leasing of HOME-ARP units or use of HOME-ARP TBRA
 - Only applicable to units restricted for occupancy by qualifying households
- HOME-ARP sponsor must sublease to qualifying household
- Sublease with the qualifying household must comply with HOME-ARP lease requirements including prohibited lease terms, termination of tenancy



Tenant Selection

- Qualifying households
 - On a project-by-project basis, PJ must determine whether owner must use:
 - CoC's Coordinated Entry
 - CoC's Coordinated Entry and other referral sources
 - Project-specific waitlist
 - Written agreement must specify tenant selection method owner must use
 - Any preferences among qualifying households must be disclosed in HOME-ARP allocation plan
 - Include preferences among qualifying households in agreement with project owner to ensure they are aware of the PJ preferences
- Low-income households
 - Must use project-specific waitlist to select households to occupy units restricted for occupancy by low-income households



Tenant Selection

- Project owner must adopt and follow written tenant selection policies and criteria that:
 - Limit eligibility to qualifying or low-income households
 - Comply with PJ preferences established in HOME-ARP allocation plan
 - Do not violate nondiscrimination requirements
 - Do not exclude an applicant with Section 8 Housing Choice Voucher, an applicant participating in HOME, HOME-ARP or other Federal, state or local TBRA program
 - Complies with VAWA
 - Gives prompt written notification to any rejected applicant including grounds for rejection
- If PJ requires project-specific waitlist, selection of households is conducted in chronological order insofar as practicable



Project Completion and Occupancy

- HOME-ARP rental projects must be completed within 4 years of project commitment
- Project completion means:
 - Construction is complete and all necessary title transfer requirements have been met
 - Project complies with all HOME-ARP requirements, including property standards
 - Final drawdown of HOME-ARP capital funds has been disbursed
- HOME-ARP units must be occupied by eligible qualifying or low-income households within 6 months of project completion
 - If not occupied, PJ must submit information on efforts to fill units, and, if appropriate, a marketing plan to HUD
 - Must repay HOME-ARP funds invested in units not occupied within 12 months of completion



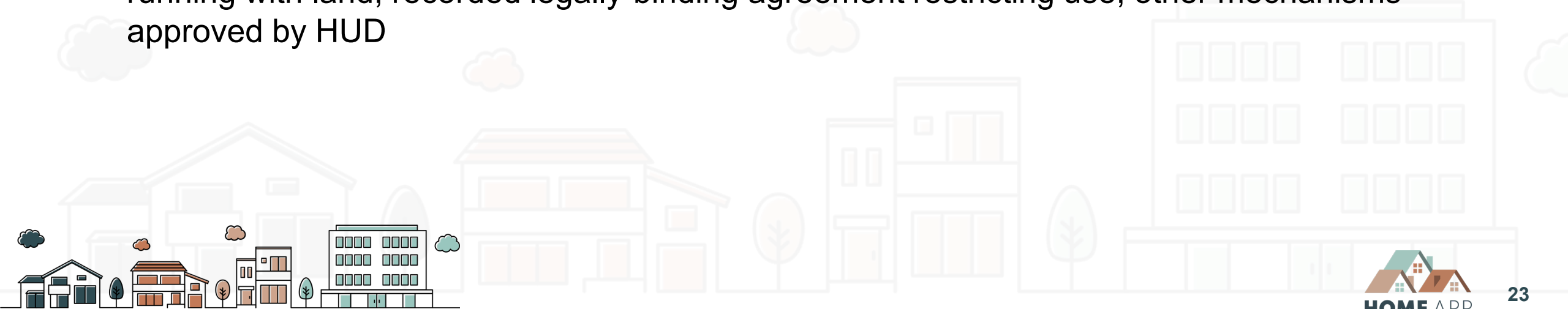
Property Standards

- Units must comply with HOME requirements at 24 CFR 92.251 including:
 - New construction – paragraph (a)
 - Rehabilitation – paragraph (b)
 - Acquisition of standard housing – paragraphs (c)(1) and (2)
 - Manufactured housing – paragraph (e)
 - On-going property condition standards paragraph (f)



Minimum Compliance Period

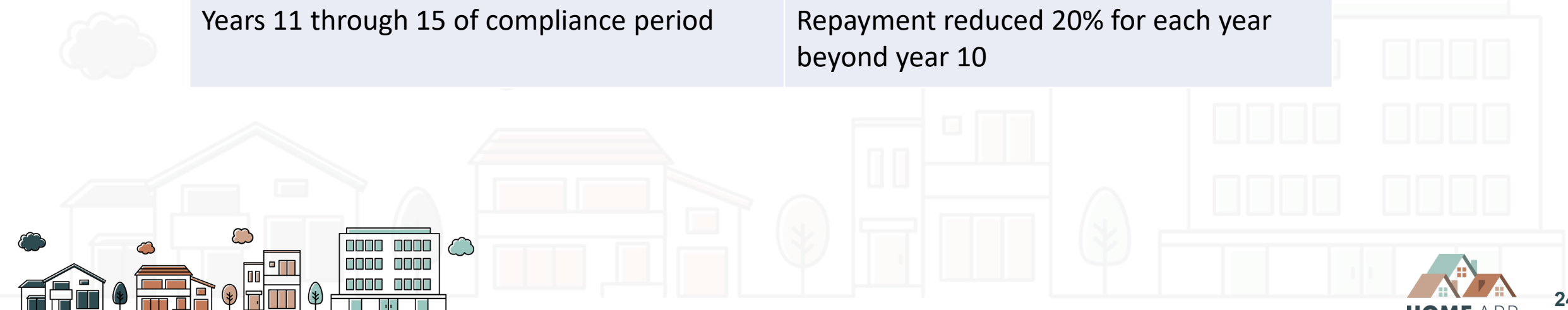
- Minimum 15-year compliance period irrespective of amount of assistance or activity undertaken
 - PJ may impose longer compliance period but cannot provide operating cost assistance to cover deficits during extended compliance period
- If project-based rental Housing Assistance Payments (HAP)
 - Compliance period is greater of 15 years or the term or the HAP contract
- Must impose HOME-ARP rental requirements through deed restriction, covenants running with land, recorded legally-binding agreement restricting use, other mechanisms approved by HUD



Penalties for Noncompliance

- Must repay HOME-ARP funds invested in rental housing that is
 - Terminated prior to completion
 - Fails to comply with initial or ongoing requirements during the compliance period

Timing of Noncompliance or Termination	Required Repayment Amount
Up to year 10 of compliance period	100% of HOME-ARP investment
Years 11 through 15 of compliance period	Repayment reduced 20% for each year beyond year 10



Penalties for Noncompliance

- Repayment not required if the following apply:
 - Project owner voluntarily or involuntarily sells/transfers
 - HOME-ARP restrictions remain
 - Project and new owner comply with all HOME-ARP requirements for duration of compliance period

AND

- HOME-ARP funds remaining in operating cost assistance reserve or reserve for replacement stay with the project and convey upon sale/transfer



Operating Cost Assistance Reserve: Management and Oversight

- PJ must oversee project operating cost assistance reserves
- Reserves must be held in interest bearing account
- Project owner must request written approval from PJ prior to disbursement
- PJ must determine distribution is reasonable and necessary to cover operating deficits associated with units for qualifying populations
- No less than annually, PJ must review reserve accounts to determine accounts are appropriately sized based on projected operating deficits



Operating Cost Assistance Reserve: Return at End of Compliance Period

- Project must return funds remaining in the operating cost assistance reserve if:
 - Project will not continue to operate in accordance with HOME-ARP requirements and serve qualifying populations beyond the 15-year compliance period and
 - The HOME-ARP grant has expired or is closed out
- Remaining operating cost assistance reserve must be deposited in the PJ's local HOME account and recorded in IDIS as HOME program income
- Project may retain funds remaining in operating cost assistance reserve if:
 - Project continues to operate in accordance with HOME-ARP requirements as demonstrated by enforceable restrictions
 - Continues to serve qualifying households
- Ongoing operating cost assistance prohibited after September 30, 2030



Resources

- HUD.gov FAQs
 - <https://www.hudexchange.info/resource/6544/home-arp-faqs/>
- HOME-ARP HUD Exchange Page
 - <https://www.hudexchange.info/programs/home-arp/>
- HOME-ARP Rental Housing Fact Sheet
 - <https://www.hud.gov/sites/dfiles/CPD/documents/HOME-ARP-Rental-Fact-Sheet091321.pdf>
- Understanding HOME-ARP Preferences, Referral Methods, and Allocation Plan Requirements Webinar
 - <https://www.hudexchange.info/trainings/courses/understanding-home-arp-preferences-referral-methods-and-allocation-plan-requirements-webinar/>
- HOME-ARP rental housing underwriting tool – coming soon!

