

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4837-D-05]****Redelegations of Authority to the Office of Multifamily Housing Assistance Restructuring**

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of revocation and redelegations of authority.

SUMMARY: Published elsewhere in today's **Federal Register**, the Secretary of HUD issued an up-to-date comprehensive delegation of authority for housing programs to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner. This notice advises the public of redelegations of authority from the Housing Assistant Secretary to the Office of Multifamily Housing Assistance Restructuring

EFFECTIVE DATE: August 11, 2003.

FOR FURTHER INFORMATION CONTACT: Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing-Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, Room 9110, Washington, DC 20410-8000, telephone (202) 708-0614. (This is not a toll-free number.) Persons with hearing-or speech-impairments may call HUD's toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Discussion of Redelegation of Authority**

Over the years, the cost to the federal government of assisting affordable, rental housing has increased rapidly. Under their assistance contracts, many projects have been charging rents that far exceed those charged for comparable units in unassisted housing in the local market. To preserve the low-income housing affordability and availability of these units, while reducing the long-term costs of project based assistance, Congress enacted the Multifamily Assisted Housing Reform and Affordability Act, Title V. of Public Law 105-65 (approved October 27, 1997) (42 U.S.C. 1437) (MAHRA). On January 10, 2002, the President signed the Mark-to-Market Extension Act of 2001, Title VI of Public Law 107-342. The Mark-to-Market Extension Act of 2001 amended certain programmatic and administrative provisions of MAHRA.

MAHRA seeks to ensure the long-term viability of multifamily projects that (1)

receive project-based rental assistance from HUD (primarily through the section 8 program) and (2) have Secretary held or insured mortgage financing through the Federal Housing Administration (FHA). MAHRA established a new office within HUD, the Office of Multifamily Housing Assistance Restructuring (OMHAR) that is responsible for carrying out the purposes of the Act and enables OMHAR to restructure the mortgage financing of the Secretary-held or HUD-insured projects as well as the project-based assistance.

Section 571 of MAHRA establishes OMHAR within the Department of Housing and Urban Development. Section 572 states that the Office shall be under the management of a Director appointed by the President. The Mark-to-Market Extension Act of 2001 amended section 578 of MAHRA to provide that all authority and responsibilities of the Director shall be carried out through, and under the oversight of, the Federal Housing Commissioner. In addition, the legislation states that OMHAR shall have a Deputy Director, appointed by the Director, who shall have powers and duties defined by the Director and who shall, in the absence of the Director, serve as the Acting Director.

The organization of OMHAR consists of both a Headquarters and a Field Office structure. Within Headquarters, transactions are decided by the OMHAR Director, Deputy Directors, a Field Liaison and a Loan Committee. The Field structure is comprised of four Production Offices. Each Production Office has a Portfolio Director who oversees the mortgage and/or assistance restructurings, as well as a Deputy Portfolio Director and a Loan Committee. As of April 2002, the OMHAR Production Offices are located in New York, Chicago, San Francisco, and Washington, DC.

Section 573 of MAHRA, captioned "Duty and Authority of Director," provides in part that "the Secretary shall, acting through the Director, administer the program of mortgage and rental assistance restructuring and that the Director may delegate to officers and employees of the Office (but not to contractors, subcontractors, or consultants) any of the functions, powers, and duties of the Director, as the Director considers appropriate."

In order to accomplish restructuring transactions, the Director of OMHAR requires certain authority that has been delegated by the HUD Secretary to the Assistant Secretary of Housing-Federal Housing Commissioner and that can be redelegated by the Assistant Secretary.

The authority to be delegated herein will enable OMHAR to modify the terms of insured or Secretary-held mortgages, determine the type and amount of section 8 assistance that would be provided to a project, approve mortgage prepayments, in whole or part, issue firm commitments and endorse mortgage notes for FHA-insurance for refinancing cases, and approve transfers of physical assets. The Director of OMHAR has, in the past, redelegated certain functions in order to facilitate the development and efficient review of Restructuring Plans, Restructuring Commitments and rent restructuring (OMHAR Lite) applications while continuing to ensure the integrity of OMHAR's work product. These redelegations have allowed the approval of certain Restructuring Commitments and OMHAR Lite applications to be performed by Portfolio Directors, Deputy Directors, Production Loan Committees, and a Headquarters Loan Committee. Under the authority redelegated herein, the Director may modify these redelegations.

The specific authorities redelegated are set forth in Section II. of this notice.

II. Authority Redelegated

The Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner retain and redelegate to the Director, Office of Multifamily Housing Assistance Restructuring the power and authority described as follows:

Authority is redelegated, on a nationwide basis, to exercise the following functions, in making decisions under MAHRA, that are binding upon the Department of Housing and Urban Development in the conduct of any mortgage and/or assistance restructuring transaction:

(1) Modify the principal balance, payments, interest rate, and amortization period and other terms of existing FHA insured and HUD-held mortgages;

(2) Approve a prepayment, in whole or part, of an insured mortgage note pursuant to section 517(b)(1) of MAHRA;

(3) Determine the type of rental assistance and the section 8 contract rent levels, pursuant to sections 514 and 515 of MAHRA;

(4) Determine the Section 8 contract rent levels for eligible properties referred to OMHAR whose debt is not restructured pursuant to section 524(a)(1) of MAHRA;

(5) Issue a firm commitment for FHA mortgage insurance and endorse the