NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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Ms. Stephanie White
Director, Multi-Family Housing Portfolio Management
U.S. Department of Agriculture-Rural Housing Service
14th and Independence Avenue SW
USDA South Building
Washington, DC 20250

Dear Stephanie:

Thank you for the opportunity to review the Portfolio Management Division Draft of the Property Management Performance Assessment Review (PAR). This proposal has been thoroughly reviewed by NAHMA's rural housing managers. NAHMA's comments, which I respectfully submit for your consideration, are the result of their thoughtful deliberations.

Position Statement

NAHMA understands Rural Development's concerns about ensuring regulatory compliance and sound management of affordable properties in its portfolio. NAHMA is interested in working with RD to develop a policy which would use financial incentives to reward management companies that exceed minimum performance standards. We believe a positive, incentive-based approach is more likely to achieve the results RD seeks. On the other hand, we strongly oppose the penalties RD proposed in the discussion draft. NAHMA considers these penalties redundant and counterproductive. We strongly urge RD to remove the performance-based management fee penalties from the PAR, and instead, work with the industry to create a successful incentive-based system.

Furthermore, NAHMA strongly urges RD to convene a solution-oriented occupancy working group with its industry partners. Including occupancy factors in the criteria for the base management fee and penalties is a misguided approach. First, filling vacancies in the rural environment, especially without Rental Assistance, is very difficult. Many times, factors that cause vacancies are beyond the management agent's control. Secondly, RD *already* has a sanction for vacancies included in the management fee. Management agents are only paid for *occupied* units. A more prudent approach for RD is to work with owners and managers to identify ways that the regulations, handbooks and servicing tools can be improved so they can effectively address the factors that cause vacancy problems.

Specific Comments on the Draft PAR

Requirements for 100% Base Management Fee Earnings

NAHMA recommends that this section be renamed and revised. We do not support an approach that assumes reductions in the base management fee. Adding this element of uncertainty to the management fee will likely deter management companies from taking-on troubled properties. Some managers would receive fee cuts despite the fact they are trying to turn around troubled properties.

Another unintended consequence could result in strong management companies abandoning the RD portfolio altogether. A “penalty-based” approach dismisses many of the challenges managers face in trying to operate financially sound, compliant properties in a climate of few meaningful rent increases and low management fees. Such an approach also fails to account for factors beyond the agent’s control, such as historically high occupancy rates. The draft PAR seems to hold the fee manager as a financial guarantor of the property without recognizing the distinctions between fee-management and owner-management. The fee manager cannot make many of the decisions which affect the property’s financial performance without the owner’s approval. RD’s evaluation of management performance should recognize the distinctions between fee-management and owner-management.

We recommend changing the approach in this section. Instead of assuming reduced management fees for less than perfect performance, RD should use the PAR as an opportunity to develop consensus about what constitutes “good management,” as well as specific factors that contribute to good management. This consensus should be used to create an objective minimum standard. Then, once the minimum standard is established, RD should use the PAR to reward management companies that exceed the minimum standard.

Our specific comments on the seven proposed criteria follow:

- The proposal should specify a firm date for conducting any PAR, not a budget review date;

- In criteria #1, the assumption of “no findings” is unrealistic;
  - It should be changed to “no unresolved findings” within a specific period of time;

- Please specify which “Agency database” is referenced in criteria # 1 and #2;

- Please specify which “violations” are referenced in criteria #2;

- We recommend adding a grace period to criteria #4;

- We strongly recommend striking criteria #6 and #7;
  - First, we found the wording of #6 extremely confusing; and
  - More importantly, we are concerned that the occupancy-based penalties proposed in criteria #6 and #7 are redundant and misdirected.

We would like to reiterate that the current management fee already includes a penalty for vacancy, because managers are only paid for occupied units. To penalize managers for operating properties located in areas with historically high vacancies is unfair. Likewise, some properties have historically high vacancy because of their location. Existing RD policies provide a way to implement work-out plans for occupancy on a property basis. NAHMA strongly encourages the Administration to begin a dialogue with owners and management agents about how work-out plans and other RD policies could be used more effectively to solve occupancy problems.

Performance Add-On Fee

NAHMA welcomes the opportunity to work with RD to create an incentive-based management fee structure that would reward managers who exceed the minimum standards. An incentive-based approach which builds off of a clear minimum standard would be well-received by the industry. We also believe RD is more likely to achieve its goals for regulatory compliance using positive incentives.

We offer the following recommendations to create an effective incentive-based system based on positive reinforcement:

- Start with a minimum standard and build incentives into the management fee structure for those who exceed them;

- One example of a successful incentive-based fee system is used by the New Jersey Housing and Mortgage Finance Agency. This system permits owners to pay increased management fees to agents who score well on the evaluation. It has been a positive reinforcement. NAHMA has attached additional information about this system for your review;

- RD should create objective, realistic performance standards that are attainable even for troubled properties;

- The policy should acknowledge the differences between fee-management and owner-management; and

- Other management functions that RD should promote through financial incentives are:
  - Energy conservation; and
  - Training /education for staff.

Reductions Due to Performance

For reasons that have already been explained in detail, NAHMA strongly urges RD to entirely strike the performance-based management fee reductions. Nevertheless, our comments on the six incidents that would reduce the base management fee follow:

- Incidents #1 and #2: We respectfully note that allowances should be provided when paperwork or compliance deadlines were missed because of delays on the part of RD rather than the management agent;

- Incident #3: We recommend that any evaluation of the reserve account provide a grace period to correct the delinquency; and

- Incident #6: NAHMA objects to penalizing agents for vacancy increases or income decreases, which may be beyond the agent's control.

Conclusion

Thank you again for inviting NAHMA's feedback on the draft PAR. Please continue to consider NAHMA as a resource for information you may require to achieve our shared goal of providing quality affordable housing for low-income families in rural America.

Sincerely,

Kris Cook

Kris Cook, CAE
Executive Director