



Klein Hornig ^{LLP}

COUNSELORS AT LAW

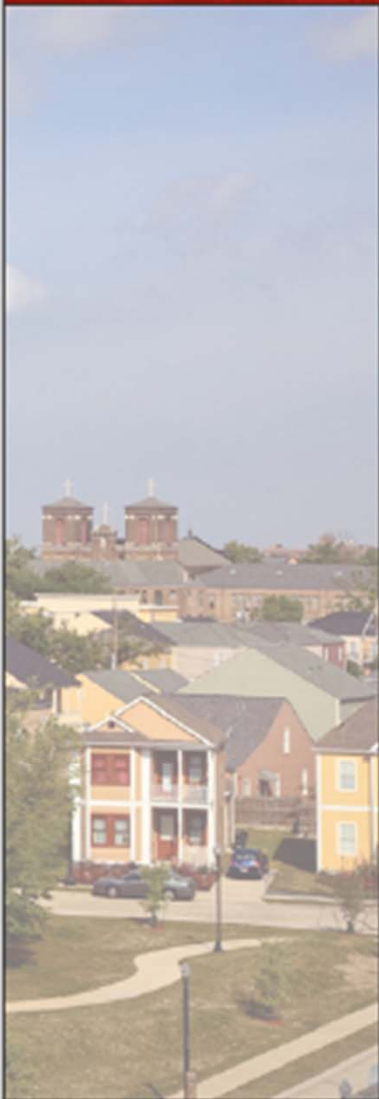
The Good, the Bad and the Ugly of Section 8 PBRA

Thursday, April 6, 2017



Presenters

- **Stan Houle**, Program Manager, HUD Office of Housing Assistance and Grant Administration
- **Zoe Weinrobe**, Director of Real Estate Innovation, Jewish Community Housing for the Elderly
- **Steve Niles**, Partner, Klein Hornig LLP



SECTION 8's Critical Role In Affordable Housing Development -- "The Good"

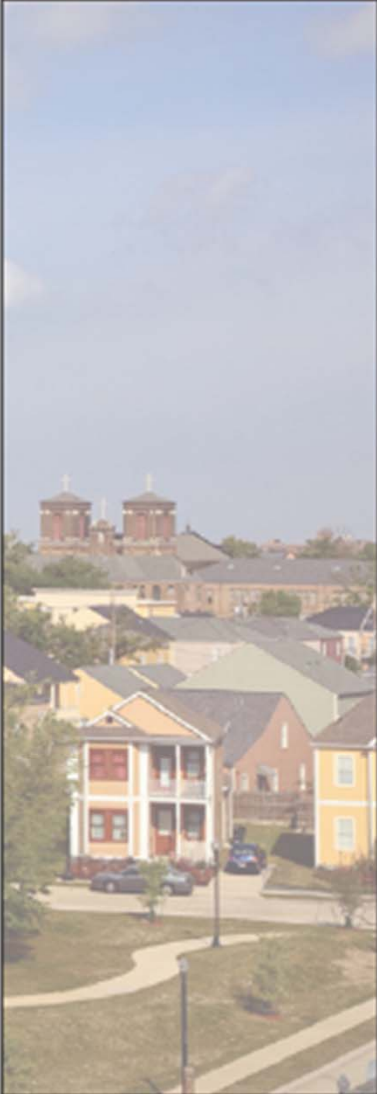
Section 8 PBRA and Voucher = 64% of FY '16 HUD Budget (\$47.2B)

- Funding for PBRA was \$10.6B in FY '16

PBRA Assists 1.2 Million Low Income Households -- but only 25% of eligible households

- Average Household Income Below \$12K per year
- 56% of Households include Elderly or Disabled Person
- Tenants paying 30% of their adjusted income

Assistance to Residents in over 17,000 properties throughout US



Maximizing HAP Contracts

Important/valuable “asset” to
Owner/Investor/Lender

Owners Using HAP Contract Renewals for:

- Preservation/Stabilization of Rental Income
- Rehab
- New Construction
- Equity Take-Out



Maximizing HAP Contracts and Project Value

How HAP Renewals Help

- New 20 Year Subsidy Contract – backed by Fed. Govt. (Full Funding in years past)
- Rent Increases to “As Is” Market Rents
- Rent Increases to “Post Rehab” Market Rents
- Preservation, in some cases, of Above Market Rents
- Potential to Receive Increased/Unlimited Distributions
- Mechanism for Annual Rent Adjustments (OCAF, BB, Market)
- Use Replacement Reserves and Residual Receipts



“Skinny Budget” – Will this Be “Bad/Ugly”?



Government Operating Under CR Through April 28, 2017

- For FY '17, Funding at FY '16 Levels
- Even at Current Funding, Shortfall of \$300-500 Million on PBRA
- HUD Indicates Some Contracts Will Be Funded For Less Than 12 Months
- Trump Administration Proposal for FY '17 (Cut \$1.5B from CDBG)

Trump Administration FY '18 Budget Cuts over 21% from HUD Affordable Housing Programs (over \$6.7B)

- How to Pay For the Wall, Defense Increases and Tax Cuts
- Eliminates Funding for CDBG, HOME and Choice Neighborhoods
- Significant Reductions for Public Housing; Cuts for HCVs
- Scope of PBRA Cuts -- Unclear
 - “Subject to Appropriations”
 - Even Constant Funding Means Shortfall



More “Bad/Ugly”?

Proposals To Reduce Budget Outlays

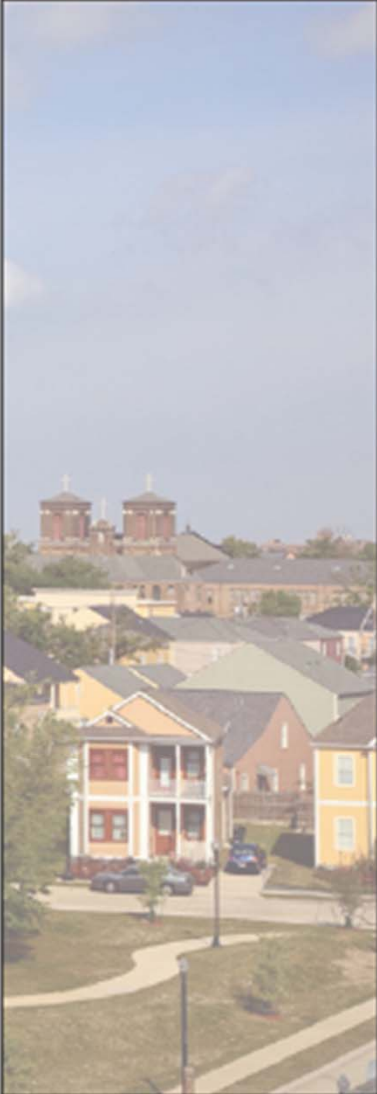
- Increase tenant payment (e.g., 35% of adjusted income)
- Skew to Higher Income Tenants (Work Requirement)
- Restrict Ability To Get Rent Increases (e.g., MUTM, BB, OCAF)
 - BUT, over 50% of S8 Projects have FHA-insured/HUD-held loans

2-For-1 Regulatory Replacement

- What stays and what goes?

Hiring Freeze – Attrition Plan

- Further Limiting HUD Resources/Morale
- Unfilled and “Acting” Positions



Know What You Have And What You Can Do

Different Types of PBRA

- NC, SR, LMSA, PD – and now RAD
- Look for Original Contract and Renewal Contract(s)
 - “Old Reg” and “New Reg”
 - Distributions
 - Residual Receipts
 - Replacement Reserves
 - Requirements for AFS
 - Affordability Requirements

Look for HUD Use Agreements

Look to Debt Documents



MAHRAA Renewal Options

“Renew” most terms of original HAP contracts
– Distributions

Options:

Option 1 -- Mark-Up-To-Market**

- Chapter 15 (Post Rehab)
- Non-Profit MUTM

Option 2 -- OCAF or BB

- Chapter 15 (Post Rehab)

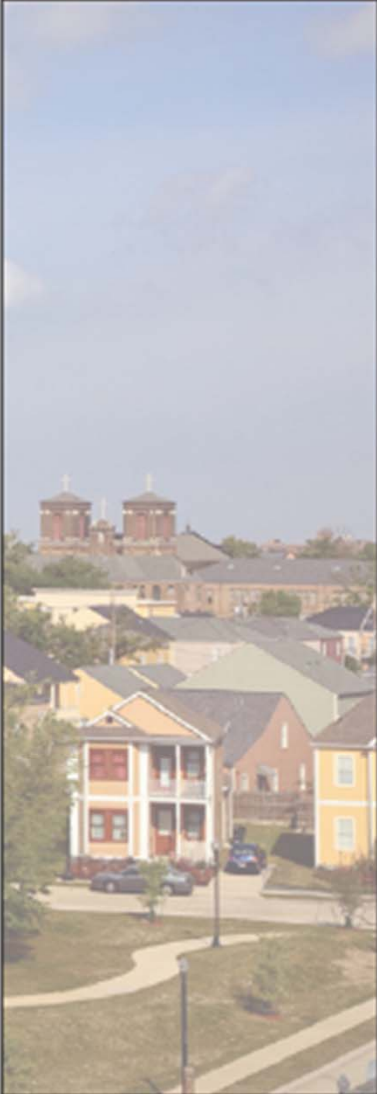
Option 3 -- Mark-Down -To-Market

- M2M Debt Forgiveness/Assignment
- 10/1/17 Sunset, unless extended

Option 4 -- “Exception Projects”

Option 5 -- Preservation and Demo

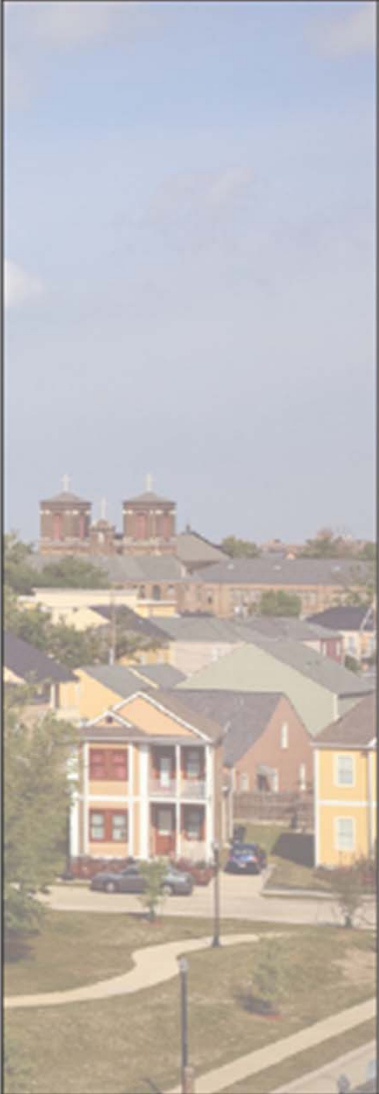
Option 6 – Opt Out



MAHRAA Renewal Options

Renewal Options – Key Piece in Preservation/Redevelopment Transaction

- Often significant rent increases upon renewal – “as is” and “post rehab” market rents
- Leverage new first debt (FHA and conventional) and soft debt
- New LIHTC equity (4% and 9%)
- Using distributions, replacement reserves and residual receipts to fund repairs/improvements
- Reduce monthly replacement reserve funding going forward



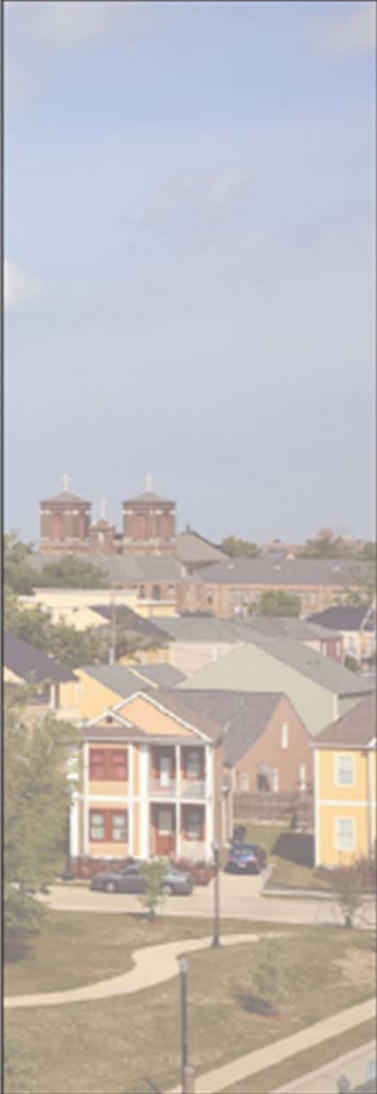
MAHRAA Renewal Options

Issues to Consider

- Early Termination of Existing HAP Contracts
 - Flexibility to Pursue Different Options
- Existing Contract Rents Relative to Market
- Rehab Potential/Required
- Utilization of Distributions
- Market Rents Relative to 140% Zip Code Rents
- Ability to get Vouchers for Unassisted Tenants



Transferring HAP Contracts/Budget Authority – “Slice and Dice”



Tool for Redevelopment Off-Site – Used for NC or Rehab

- Section 8bb (permanent)
 - Transfer S8 budget authority from one project to other(s)
- Section 212 (through 9/30/17?)
 - Transfer HAP contract, HUD debt and HUD use restrictions
- Issues
 - Physical Obsolescence or Financial Nonviability (212)
 - Location of “Receiving Property”
 - Plans for “Transferring Property”
 - Tenants’ Rights – Right to Return, URA
 - Changing Unit Mix
 - Budget Neutrality
 - HUD Commitment
 - Use in Abatement Context/Opt Outs*



Section 8 Pass-Through

Useful for Relocation -- Rehab, NC and Transfer

- HUD Permits S8 Subsidy to Continue During Off-Site Relocation
- Tenant Continues to Pay Tenant Share, Landlord Pays Balance of Rent
- Issues
 - Tenant Right to Return
 - Tenants Must Voluntarily Agree
 - Owner Pays Moving Expenses
 - Permanent Relocation under URA if beyond 12 months

