Types of HUD “Multifamily” Housing Programs

Mortgage Programs
• Loans and mortgage insurance (with low interest rates) from HUD to private owners to build and manage affordable housing
  • Loans include rent and use restrictions for a certain number of years (~40-50 years)
  • Ex: Section 236 program, Section 202 program

Rental Assistance Contracts
• Contract between HUD/public housing authority and private owner to provide rental assistance for low-income residents
  • Rental assistance supplements what the resident pays for rent
  • Ex: Project-based rental assistance, project-based vouchers, Moderate Rehabilitation program, Rent Supplement program, Rental Assistance Payment program

![Diagram showing rent allocation: Total Rent for the Unit, Rental assistance provided by the government, Resident’s rent (usually 30% of income)]
Main HUD Mortgage Programs

- Multifamily Rental Housing for Moderate-Income Families (Section 221(d)(3) Below Market Interest Rate program)
- Section 236 FHA-insured or HUD-held Mortgage
- Supportive Housing for the Elderly Direct Loan (Section 202)
HUD Mortgage Program Risks
• Mortgage maturity
  • when an owner fully repays the loan according to the *original loan repayment schedule*

• Mortgage prepayment
  • when an owner fully repays the loan *before* it was originally scheduled to be paid off

• Foreclosure
  • when the owner has not repaid its loan (“default”) or the property conditions seriously risk the health and safety of the residents
Potential HUD Mortgage Maturities Within Next 5 Years

National Housing Preservation Database
1. Is the property in a **gentrifying area** or “hot market”?
2. Why is the owner interested in prepaying the mortgage?
3. **Who is the owner** and do they receive other funding, like project-based rental assistance?
4. Has the owner provided **adequate notice** to **tenants, HUD, and the local government**? (150-270 days notice is required by federal law, state law may have additional requirements)
5. Are there **state or local laws** that require that the property first be offered for sale to the tenants or that restrict prepayment?
Prepayment = Enhanced Vouchers for Tenants

• If the mortgage is prepaid, federal law (42 USC 1437f(t)) authorizes Enhanced Vouchers to be provided to tenants

• Enhanced Vouchers are like tenant-based Housing Choice Vouchers and have additional tenant protections, including:
  • **Tenant right to remain**
    • EV tenant has the right to remain in their home, and the owner must accept the EV, as long as the property remains rental housing and has a reasonable rent
  • **Higher payment standard**
    • EV pays the difference between the tenant’s rent and the *market* rent charged by the owner, even if that new rent is greater than the PHA’s basic voucher payment standard

• If tenant moves, EV becomes regular Housing Choice Voucher
1. Are there any **rental assistance contracts** at the property in addition to the mortgage?

2. Are there **state or local notice laws or applicable rent control laws** that prohibit the conversion of the property to market rate?

3. Is the property in a “**low-vacancy area**” as defined by HUD? (HUD PIH Notice 2018-02)
Tenant Protection Vouchers for Mortgage Maturities

• Certain at-risk households who live at properties with maturing mortgages in “low-vacancy areas” are eligible to receive **EVs or PBVs** if:
  1. The **owner applies** to HUD on behalf of the tenants;
  2. The property is located in a **“low-vacancy” area**;
  3. The mortgage maturity occurred **in the last 5 years** or will occur **within 180 days** of the owner's application;
  4. The **resident** resides at the project at the time of the owner's request, is not currently assisted under any federal, state, or local rental assistance program, is eligible for HCV assistance, and as a result of the mortgage maturity, either is paying or may have to pay more than 30% of their adjusted monthly income towards rent; and
  5. Any **outstanding civil rights matters** are resolved to HUD's satisfaction.

HUD PIH Notice 2018-02
Enhanced Vouchers v. Project-Based Vouchers

**Enhanced vouchers**
- Only provided upon certain triggering events:
  - HAP contract opt-out
  - Mortgage prepayment
  - Mortgage maturity in certain low-vacancy areas (sometimes, based on owner request)
- Special protections:
  - Tenant right to remain
  - Higher payment standard
- If tenant moves, Enhanced Voucher becomes regular tenant-based voucher

**Project-based vouchers**
- PHA uses part of its tenant-based voucher funds to attach rental assistance to *particular units*
- Contract with private landlords, PHA waiting list
- PBV assistance remains w/ unit after tenant moves out
- Tenant can move out w/ tenant-based voucher after 12 months
- Tenants receive PBV when:
  - Mortgage maturity in certain low-vacancy areas (sometimes, based on owner request)
HUD Mortgage Maturities and Prepayments in Practice
Emily Coffey, Sargent Shriver National Center on Poverty Law
Natalie Minev, Legal Aid Foundation of Los Angeles
Additional Resources and Legal Authorities
Important HUD Mortgage Resources

- **Mortgage Maturity Toolkit**
- **HUD Notice 2018-02**
- **Letter from Margaret Salazar, HUD Assoc. Dep. Ass’t Sec’y, OAHP, to Section 236 Property Owners** (Jan. 6, 2014)
- **42 U.S.C. 1437f(t)**
- **HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs**
- **National Housing Preservation Database**
Questions?

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