



Understanding HUD Mortgage Prepayments and Maturities

Jessie Cassella
National Housing Law Project
May 3, 2018

Types of HUD “Multifamily” Housing Programs

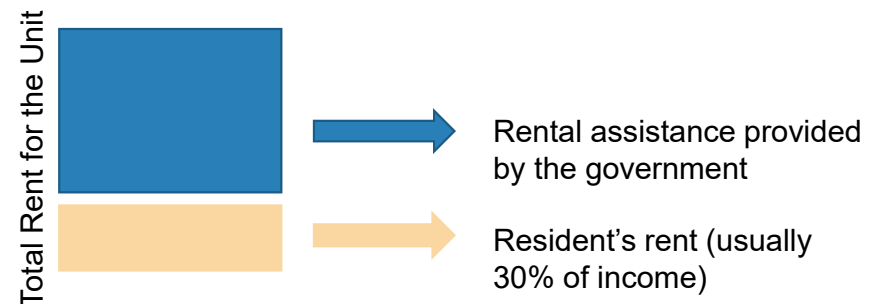
Mortgage Programs

- *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



Main HUD Mortgage Programs

NATIONAL
HOUSING LAW
PROJECT

- 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**)



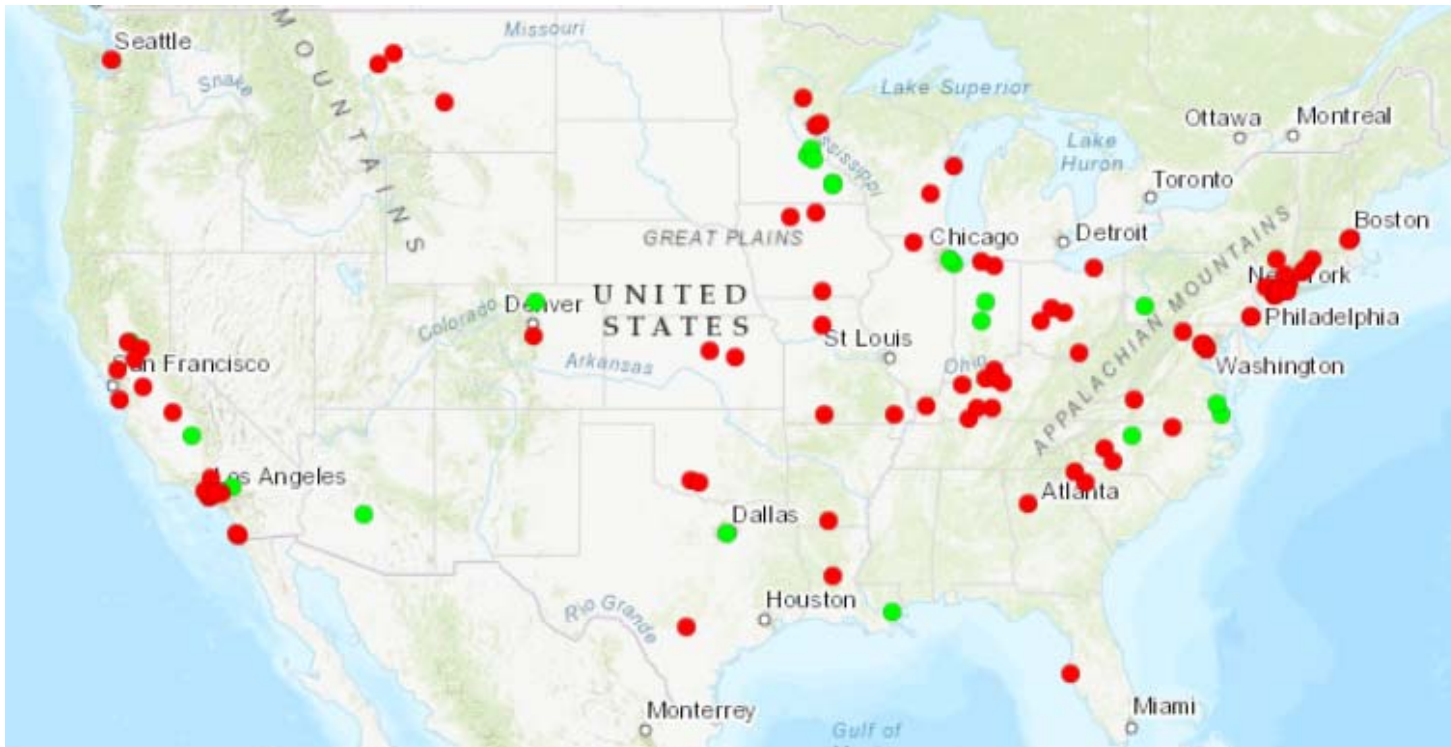
HUD Mortgage Program Risks

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](#)

Mortgage Prepayments

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

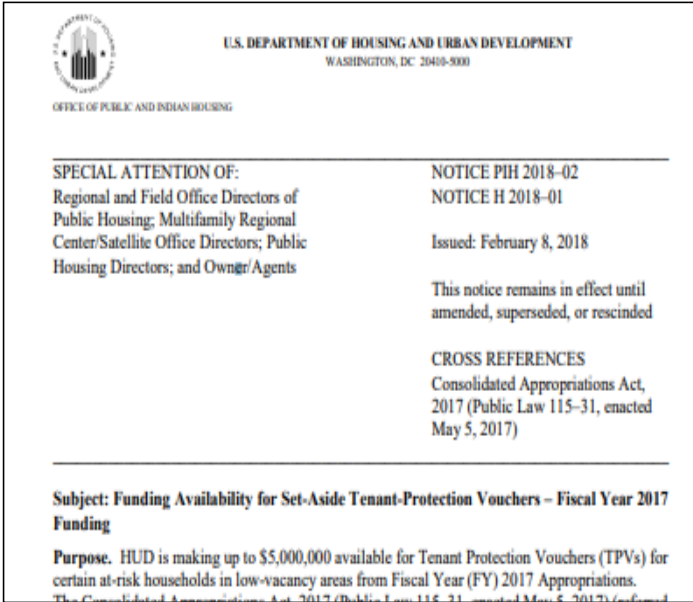
Responding to Mortgage Maturities

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.



The image shows a formal notice from the U.S. Department of Housing and Urban Development (HUD). At the top left is the HUD logo, and at the top right is the text "U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WASHINGTON, DC 20410-8000". Below this is the "OFFICE OF PUBLIC AND INDIAN HOUSING" header. The main body of the notice is divided into two columns. The left column is titled "SPECIAL ATTENTION OF:" and lists the intended recipients: "Regional and Field Office Directors of Public Housing; Multifamily Regional Center/Satellite Office Directors; Public Housing Directors; and Owners/Agents". The right column contains the notice details: "NOTICE PIH 2018-02", "NOTICE H 2018-01", and "Issued: February 8, 2018". Below this, it states "This notice remains in effect until amended, superseded, or rescinded." and "CROSS REFERENCES" to the "Consolidated Appropriations Act, 2017 (Public Law 115-31, enacted May 5, 2017)". At the bottom, there is a "Subject: Funding Availability for Set-Aside Tenant-Protection Vouchers – Fiscal Year 2017 Funding" and a "Purpose" section stating that HUD is making up to \$5,000,000 available for Tenant Protection Vouchers (TPVs) for certain at-risk households in low-vacancy areas from Fiscal Year (FY) 2017 Appropriations.

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

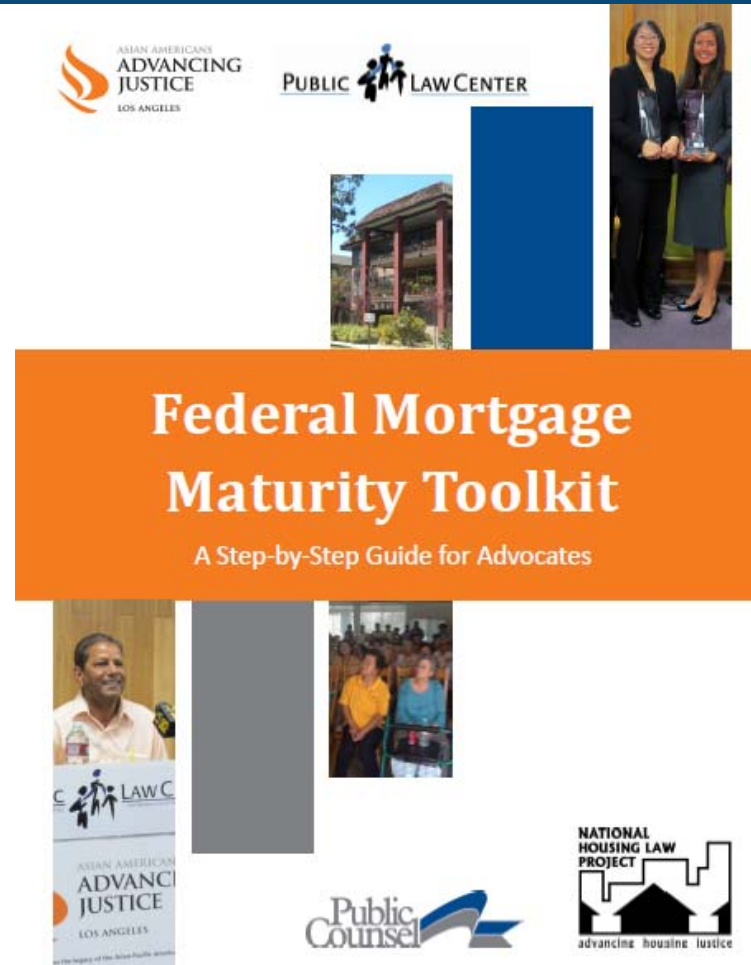
Emily Coffey, Sargent Shriver National Center on Poverty Law

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?



Jessie Cassella, jcassella@nhlp.org, (202) 347-4703