

THE HFA INSTITUTE 2025

HOME Rental Compliance

January 12, 2025

- 1:00 – 2:30 PM ET
- 2:45 – 3:45 PM ET
- 4:00 – 5:30 PM ET



National Council of
State Housing Agencies



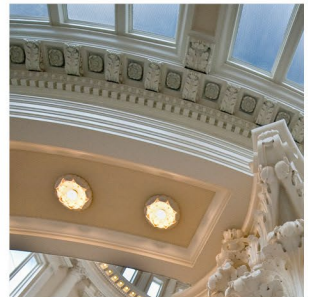
**MRBs and
Other Federal
Homeownership
Programs**
JANUARY 15 – 17



Housing Credit
JANUARY 14 – 16



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
JANUARY 15 – 17



**HOME and
Housing Trust
Fund**
JANUARY 12 – 14



Trainers:

Jennifer Miller, ICF

Les Warner, ICF

Eligible Rental Activities

- Range of possible approaches under HOME:
 - Acquisition
 - Rehabilitation
 - Reconstruction/conversion
 - New construction

Other Project Types

Group homes, transitional housing and SROs are eligible

- Tenants must have a lease
- Tenants must be low-income
- Housing cannot be conditioned on participation in service programs(except for transitional housing)

Facilities, shelters, dormitories, half-way houses and student housing are not eligible

Definition of a HOME-Assisted Unit



Any unit that receives HOME funds is considered HOME -assisted



HOME units are subject to all HOME requirements, including affordability periods, income restrictions, property standards, etc.



HOME funds may also be spent on mixed-income projects, where some units are HOME assisted while others are not

Other Rental Compliance Related Federal Regulations

Non-Discrimination

Accessibility (Section 504)

2 CFR Part 200

VAWA

Eligible Costs Can Include:

Operating deficit reserve:

- Initial operating deficit reserve in new construction AND rehab projects allowed
 - Reserve cannot exceed 18 months
- Reserve can be used only for:
 - Project operating expenses
 - Scheduled payments to replacement reserves
 - Debt service

To make up difference between income and expenses

Allowable Fees



PJ may charge owner a monitoring fee (for projects funded after 8/23/13 only)

See HOMEfires Vol. 14, No. 2



Owners may charge tenants for reasonable and customary fees

Application fee, parking, services

Project Deadlines

- 4-year project completion deadline—
 - Projects must be completed 4 years from the date the written agreement is jointly executed
- Rental occupancy deadline—
 - Units must be occupied by income-eligible tenants within 18 months of project completion or repayment required
 - Reporting requirements including marketing plan if not occupied within 6 months of project completion

On-Site Manager's Unit

- After project completion, PJs may convert a HOME-assisted unit to on-site manager's unit
 - Must be needed for stability of the project
 - Project must be 100% HOME-assisted; and
 - Maximum per unit subsidy limit may not be exceeded

Ongoing Property Standards

PJ's property standards for rental housing during affordability period based on:

- State/local codes and requirements,
- Health and safety, AND
- Lead based paint

If no state/local codes, must include all inspectable items and areas from UPCS

PJs must implement NSPIRE by October 1, 2025

NSPIRE



NSPIRE Inspection Standards published on June 22, 2023 for public housing, multifamily housing, and housing choice vouchers/project-based vouchers



HUD has not yet published the notice for HOME/HTF deficiencies, but these deficiencies for HOME/HTF will be a subset of the NSPIRE standards



PJs must develop rehabilitation and ongoing property standards along with policies and procedures that incorporate the NSPIRE deficiencies once they have been published

Inspections

PJ must have:

- Inspection procedures
- Detailed inspection checklists
- Protocols for training and certifying inspectors

Frequency of inspections during affordability period:

- Once within 12 months of completion
- At least every 3 years thereafter
- More often if health/safety issues or other problems identified

Inspections

Sample size

- 1- 4 units
 - 100% of units must be inspected
- 5+ units
 - Statistically valid sample
 - HUD will provide guidance through notice
- A follow-up on-site inspection to verify that deficiencies were corrected must occur within 12 months
- Projects with non-hazardous deficiencies
 - PJ may allow a third-party inspection

Financial Oversight

PJ must do an annual review of financial condition for projects with 10 or more HOME units

If PJ sees problems, must take action, such as:

- More frequent reporting and monitoring
- Provide technical assistance
- Assist in identifying additional non-federal funding or another appropriate owner

Ensuring Affordability

HOME Activity	HOME Investment Per Unit	Length of Compliance/Affordability period
Rental housing acquisition and/or rehabilitation	Less than \$15,000	5 years
	\$15,000 - \$40,000	10 years
	\$40,000+	15 years
New construction of rental housing	Any \$	20 years
Refinancing of rental housing	Any \$	15 years

* If project does not remain compliant for entire affordability period, repayment required

Enforcement of Affordability

Must be legally enforced for the term of the affordability period through:

- Covenants
- Deed restrictions
- Other methods approved by HUD

May only be terminated upon transfer by or deed in lieu of foreclosure

- Unpaid balance must be returned to local HOME account

Troubled Projects

- Applies to existing HOME rental projects no longer financially viable within the affordability period
 - Troubled: operating costs significantly exceed operating revenue
- PJ may request HUD approve investing additional HOME funds into the property if new + old HOME funds does not exceed current subsidy limits
- PJ may request HUD approve reduction in number of HOME units if original number higher than required

Applicant/Beneficiary



100% of HOME \$\$ must assist households \leq 80% HUD Section 8 (Part 5) Low-Income Limit



Lower income targeting for some activities



HOME income limits published annually and available here:
<https://www.hudexchange.info/programs/home/home-income-limits/>

What Counts As Income?

- Two definitions
 - Section 8 (Part 5)
 - IRS Adjusted Gross Income
- PJ must use single definition of income for each HOME program, or for each rental project

Use the Income Calculator on the HUD Exchange website:

<https://www.hudexchange.info/incomecalculator/>

Income Basics

Gross annual income determines eligibility

- Adjusted income used for TBRA payment/rents for over income tenants

Anticipate income for next 12 months

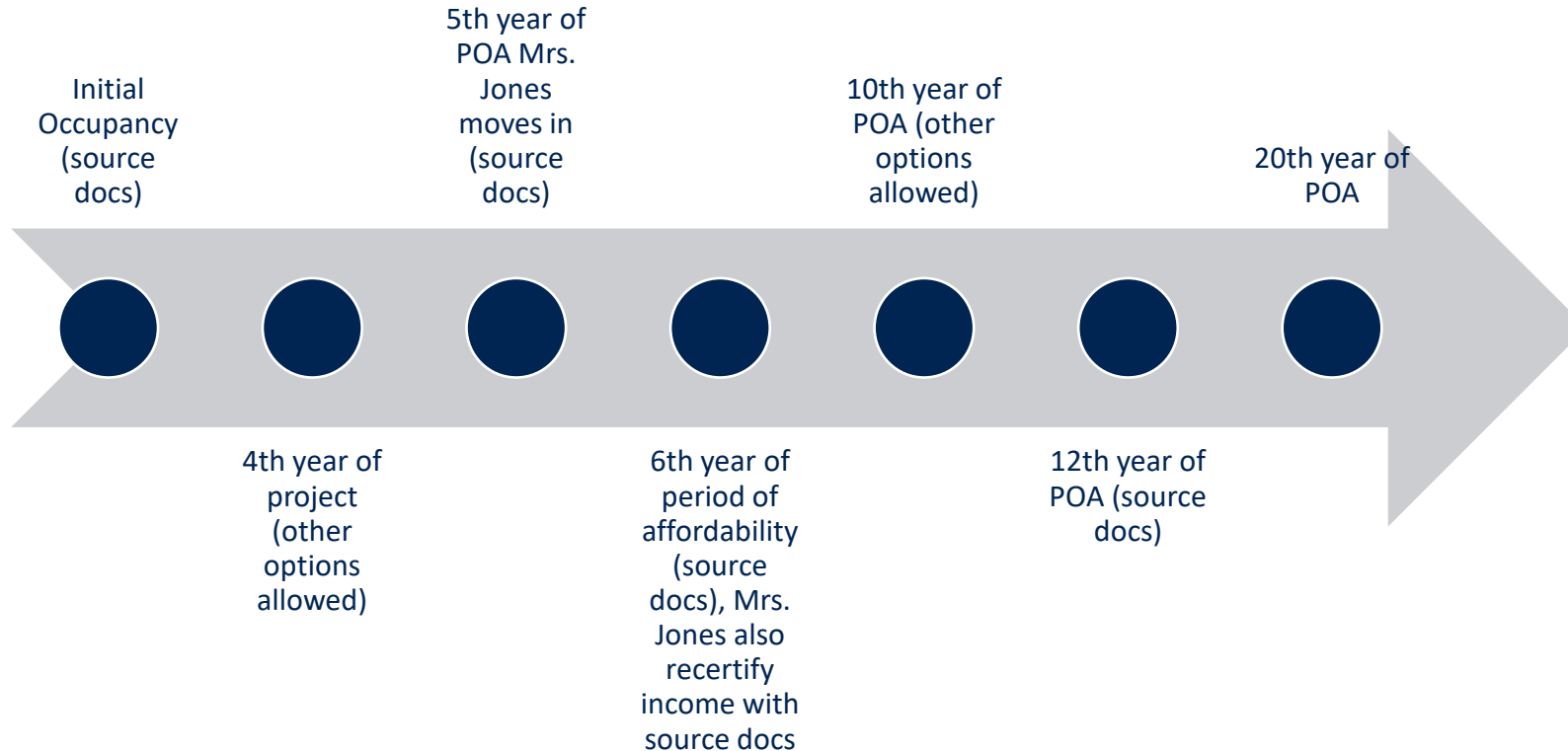
Compare income to published income limits to determine eligibility

Income is based on all household members not just family (related individuals)

Income Determinations

- Determine income using **at least 2 months** of source documentation
 - Income determination is good for 6 months
- Recertify rental income annually:
 - Source docs required every 6th year of affordability period
 - For other years can use: source documents, written statement from household, or statement from administrator of another program
- For TBRA, income must be examined annually using source docs

Annual Income Re-examinations



HOME Rent Limits



High HOME and Low HOME rent limit

Published by HUD

Tenants given notice of increases to occur at lease renewal



Actual unit rents can be less but not more than HOME limits

Rents not usually set as a percentage of individual household income

Special provision for low HOME units with project-based assistance

Low HOME rents

- Based on:
 - 30% of 50% of median income for area, OR
 - Rent does not exceed 30% of the family's adjusted income, OR
 - If project gets state or federal project-based assistance, the unit is occupied by a household at $\leq 50\%$ of median and tenant payment capped at 30% of adjusted income, can use maximum rent under project-based program
- If low HOME rent exceeds high HOME, use high HOME rent

High HOME rents

- Based on lower of:
 - 30% of 65% of median income for area; OR
 - Fair market rent

HOME Rent Limits



HOME rents are inclusive of utilities



Adjust rents for tenant-paid utilities



PJ may use HUD Utility Schedule Model format



HOMEfires Vol. 13, No. 2: Guidance on How to Establish Utility Allowances for HOME-Assisted Rental Units



Utility allowance must be updated annually

HOME Rent Example

	1 br	2 br	3 br	4 br	5 br
High	600	670	740	810	860
Low	550	630	710	810	860
FMR	630	710	740	810	860
50%	550	630	710	820	915
65%	600	670	800	910	1010

- Assume: 3 br unit, \$120 utility allowance
- Rent?

HOME Rents Over Time

HOME rents may go up or down over time

- Owner not required to accept rents lower than rents in the initial agreement

PJ must:

- Provide new HOME rents to owners/managers annually when published
- Review and approve rents, or require changes if not in compliance

The Program Rule

- 90% of households assisted with HOME rental and TBRA must have incomes at/below 60% of AMI
 - Applies when funds are spent -- initial occupancy
 - NOT project-specific
 - Balance of units may be at/below 80% of AMI

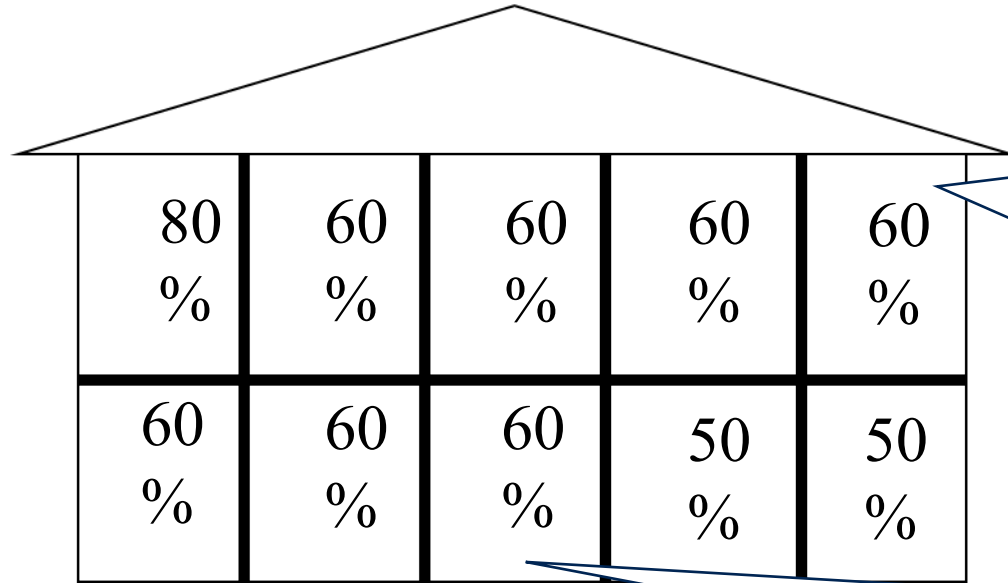
The Project Rule

Projects with 5 or more HOME-assisted units:

- At least 20% of units occupied by households at/below 50% of AMI *[Note: can have more than 20%!]*
- Determination of appropriate unit type is based on gross income of household
- Rents must be at Low HOME rent level
- Balance of units may be at/below 80% of median with High HOME rent level

Determine eligibility for Low HOME unit based on gross not adjusted income

Program and Project Rule Illustrations

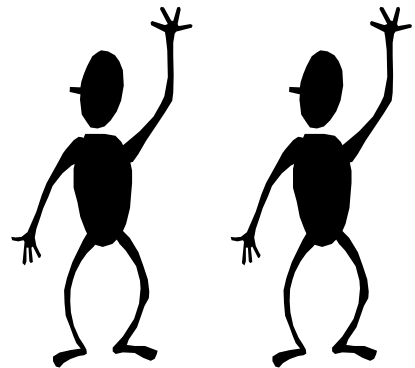


80 %	60 %	60 %	60 %	60 %
60 %	60 %	60 %	50 %	50 %

Initial occupancy meets both rules:

- 9 units at or below 60%
- 2 units at or below 50%

TBRA HHs at or below 60% of AMI, meets Program Rule



HOME Lease Terms

Leases must be for at least 1 year, unless agreed upon by owner and tenant

Leases may not contain certain provisions

Owner may terminate tenancy with 30 days notice under certain conditions

Owners **MUST** adopt written tenant selection policies and criteria

Tenant Selection Criteria

- Tenant selection policies and criteria must be based on local housing needs and priorities consistent with the PJ's Con Plan
- Owner must have selection policies that:
 - Comply with PJ's affirmative marketing requirements
 - Limit the housing to very low and low-income
 - Limit eligibility or give preferences to particular segment of population, ONLY if in written agreement and Action Plan
 - Not exclude applicants with voucher or TBRA

Tenant Selection Criteria: Special Needs Housing

- May limit eligibility to tenants with physical and developmental disabilities who need services offered at the project
 - Limited to those with disabilities that interfere with ability to obtain and maintain housing
 - Families could not obtain or maintain housing without these offered services
 - Families cannot be required to accept services
 - Must be open to all eligible persons with disabilities who may benefit from the services

VAWA

Violence Against Women Reauthorization Act of 2013 Final Rule applies to project committed on or after Dec. 16, 2016

VAWA protects any person who is **BOTH**-an applicant or tenant of a covered project: **and**

- A survivor of
 - Domestic violence,
 - Dating violence,
 - Sexual assault, or
 - Stalking

VAWA

Projects required to adopt emergency transfer plans

Must allow tenants who qualify to transfer to another HOME/HTF unit in same project if considered safe or may assist to move out of project into another HOME/HTF project

May utilize TBRA for emergency transfers if a part of TBRA plan

May bifurcate lease to evict abuser

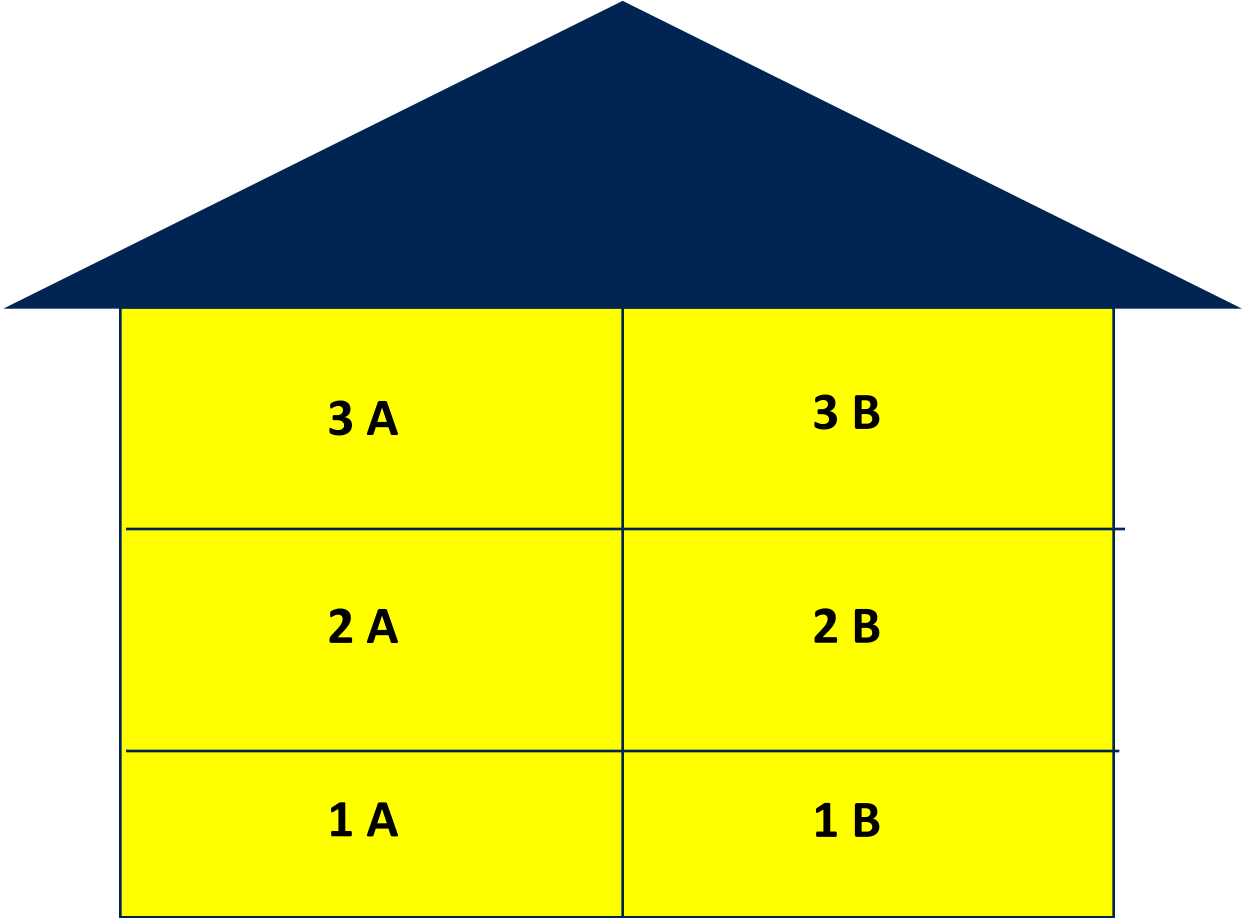
Maintaining HOME Project Unit Mix Throughout the Affordability Period

- The project owner must take certain steps to maintain compliance with HOME rent and occupancy throughout the affordability period
 - The total number of HOME-assisted units, as required in the written agreement with the PJ
 - The correct number of High and Low HOME rent units
 - When tenant income changes, to restore compliance with the unit mix requirements

Fixed and Floating Units

- Only units receiving HOME \$\$ are subject to HOME requirements
- For properties with HOME and non-HOME units, must select “fixed” or “floating” HOME units
 - Fixed = HOME units for entire affordability period
 - Floating = unit numbers change but always have same portion of HOME units

Fixed & Floating Units



Floating Units

- Units must be comparable
 - Same number of bedrooms
 - Amenities
 - Square footage

Maintaining HOME Project Unit Mix

Key Terms for Discussion

- **HOME-assisted unit:** Unit currently designated as compliant with HOME rules
- **Market rate unit:** All non-HOME assisted units in project
- **Unit type:** Fixed or floating
- **Net HOME rents:**
 - *Low HOME:* Current HUD-published Low HOME rent minus tenant-paid utilities
 - *High HOME:* Current HUD-published High HOME rent minus tenant-paid utilities

** Note: for simplicity, these slides assume no other types of assisted units in project (such as LIHTC or CDBG)

Key Terms for Discussion

- **Income categories:**
 - *Very low income (VLI)*: Household earns \leq 50% of AMI
 - *Low income (LI)*: Household earns \leq 80% of AMI
 - *Over income (OI)*: Household earns \geq 80% of AMI
- **Existing (original) tenant:** Tenant currently living in HOME-assisted unit
- **New tenant:** Tenant who moves into HOME-assisted project

Over-Arching Points

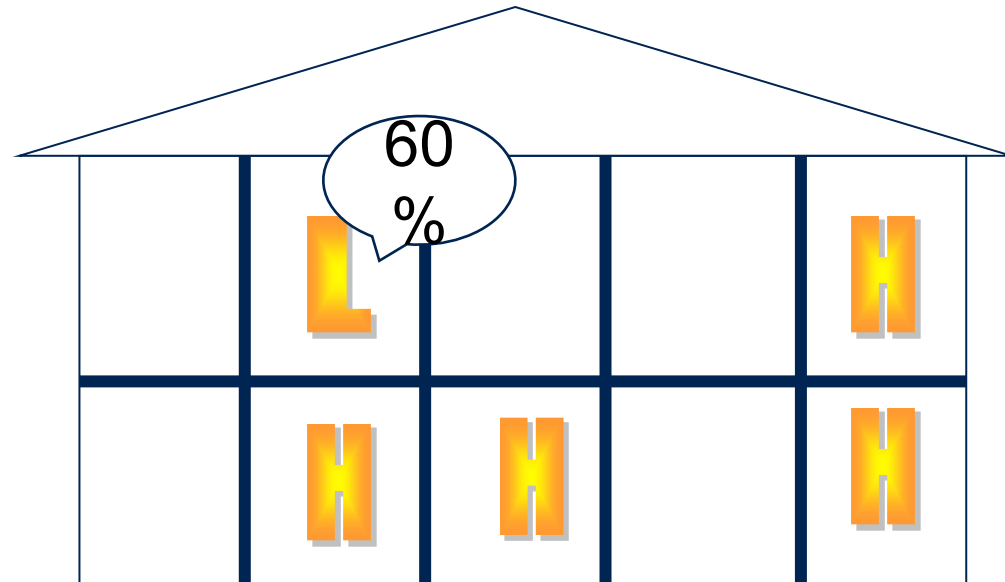
- Must maintain mix of HOME & market rate units
 - Designated in written agreement
- Must maintain proportion of Low & High HOME rent units
 - Minimum Low HOME: 20% of HOME-assisted units
 - Actual percentage established in written agreement
- Existing tenants are never required to move due to income change
 - Neither *required* to move out from project nor required to move to different unit in same project
 - Existing tenant may *choose* to move out if they do not like their new rent; this is not “displacement”

Over-Arching Points

- For LI in Low HOME unit, cannot change rent from Low to High HOME until substitute Low HOME unit is identified
- For OI in either Low or High HOME unit, can change rent as permitted by lease – do not need to wait for substitute unit
 - Project may be in “temporary non-compliance”
- Tenant income is verified annually; allowable rent changes occur when permitted by lease
 - Tenant is provided 30 days notice of rent change
- Depending on existing tenant incomes and units, unit swap may be possible
 - Example: need Low HOME unit & VLI household lives in High HOME unit

Example #1: Low HOME Above 50% but Below 80% of AMI

- 5 HOME assisted units, 4 High (H) and 1 Low (L)
- Low HOME unit tenant recertified at 60% of AMI



Increases in Tenant Income

Income between
50 - 80% AMI

MATTERS ONLY FOR LOW
HOME RENT UNITS

- Rent: **stays at Low HOME rent** until High HOME rent unit is designated as Low HOME rent
- Once replacement is identified, rent **adjusts to High HOME rent**
- Unit is now designated as a High HOME rent unit

Income greater than 80% AMI

SAME ACTIONS FOR HIGH AND
LOW HOME UNITS

Fixed unit:

- Rent: raised to 30% of monthly adjusted income
- Next Available **HOME** unit must address High/Low HOME unit proportions
- No action for next available non-HOME unit

Floating unit:

- Rent: raised to LESSER OF 30% of monthly adjusted income or Comparable Market Rent
- Next available **non-HOME** unit
 - Must be designated as HOME unit and
 - Address High/Low HOME unit proportions

Example #1 Low HOME Above 50% but Below 80% of AMI (cont)

- Steps are the **same** for either fixed or floating to maintain unit mix
 - Look for a High HOME unit where a tenant is at or below 50% of area median income, make swap
 - If High HOME unit not available, rent remains at Low HOME until swap is made
 - After swap, owner may increase rent to High HOME rent as lease permits

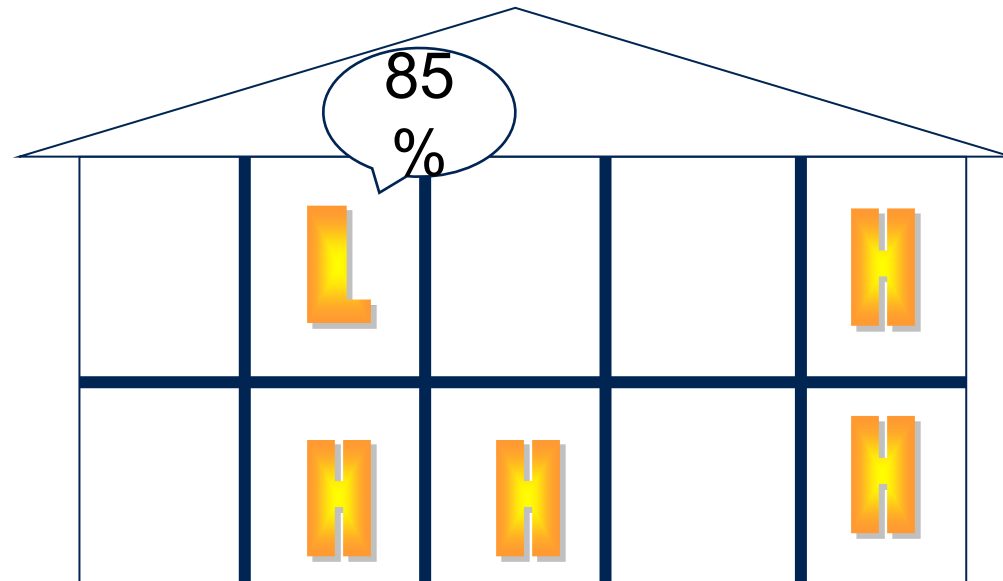
Example #1 Low HOME Above 50% but Below 80% of AMI (cont)

- 5 HOME assisted units, 4 High (H) and 1 Low (L)
- High and Low can simply swap



Example #2: Fixed Low HOME unit income rises above 80%

- 5 HOME fixed assisted units, 4 High (H) and 1 Low (L)
- Low HOME unit tenant recertified at 85% of AMI – over income



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Increases in Tenant Income

- Income between
50 - 80% AMI
- MATTERS ONLY FOR LOW
HOME RENT UNITS
- ↓
- Rent: **stays at Low HOME rent** until High HOME rent unit is designated as Low HOME rent
 - Once replacement is identified, rent **adjusts to High HOME rent**
 - Unit is now designated as a High HOME rent unit

Income greater than 80% AMI

SAME ACTIONS FOR HIGH AND
LOW HOME UNITS

Fixed unit:

- Rent: raised to 30% of monthly adjusted income
Next Available **HOME** unit must address High/Low HOME unit proportions
- No action for next available non-HOME unit

Floating unit:

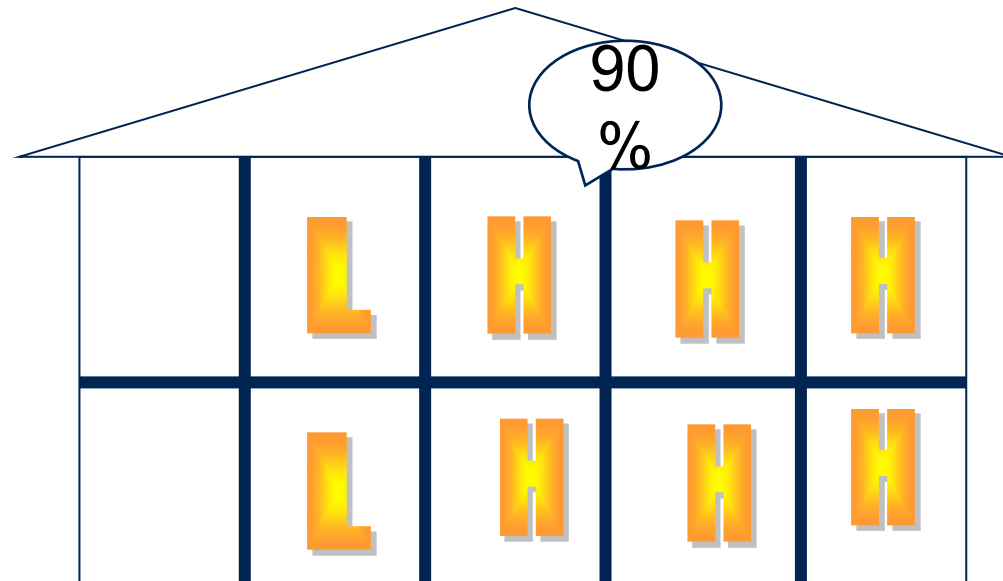
- Rent: raised to LESSER OF 30% of monthly adjusted income or Comparable Market Rent
- Next available **non-HOME** unit
 - Must be designated as HOME unit and
 - Address High/Low HOME unit proportions

Example #2: Fixed Low HOME unit income rises above 80% (cont)

- Next steps to maintain unit mix
 - For fixed over income, **adjust rent first** as the lease permits and then find unit to swap
 - Adjust rent to 30% of the household's adjusted monthly gross income
 - Identify High HOME unit with tenant at or below 50%, and make swap
 - If no High HOME unit available, unit/project remains “temporarily out of compliance” until the tenant moves out, there is a vacancy in a High HOME unit, etc.
 - Low HOME unit must be replaced first

Example #3: Fixed High HOME unit income rises above 80%

- 8 HOME assisted fixed units, 6 High (H) and 2 Low (L)
- High HOME unit tenant recertified at 90% of AMI – over income



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Increases in Tenant Income

- Income between 50 - 80% AMI
MATTERS ONLY FOR LOW HOME RENT UNITS
↓
 - Rent: **stays at Low HOME rent** until High HOME rent unit is designated as Low HOME rent
 - Once replacement is identified, rent **adjusts to High HOME rent**
 - Unit is now designated as a High HOME rent unit

Income greater than 80% AMI

SAME ACTIONS FOR HIGH AND LOW HOME UNITS

Fixed unit:

- Rent: raised to 30% of monthly adjusted income
- Next Available **HOME** unit must address High/Low HOME unit proportions
- No action for next available non-HOME unit

Floating unit:

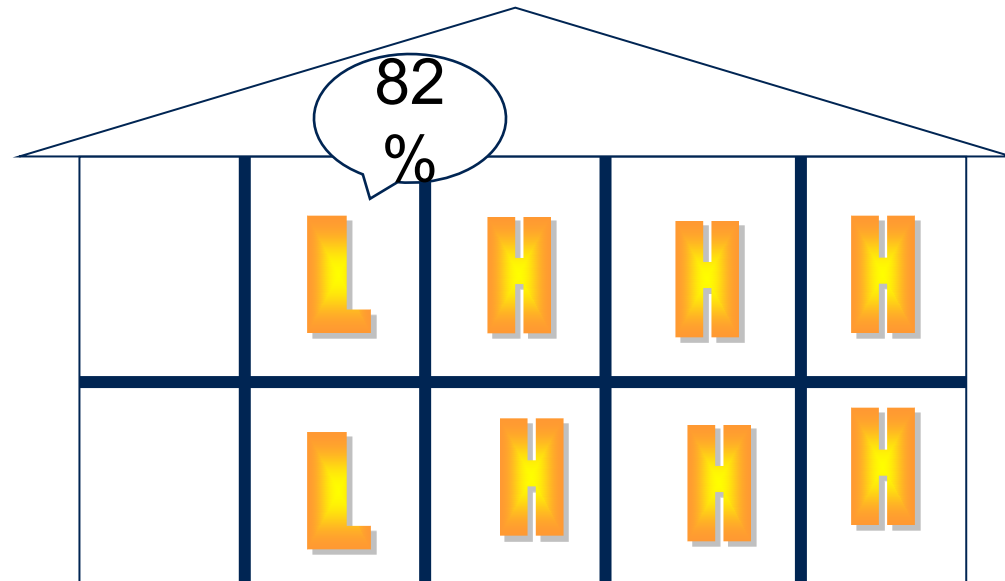
- Rent: raised to LESSER OF 30% of monthly adjusted income or Comparable Market Rent
- Next available **non-HOME** unit
 - Must be designated as HOME unit and
 - Address High/Low HOME unit proportions

Example #3: Fixed High HOME unit income rises above 80% (cont)

- Next steps to maintain unit mix
 - For fixed over income, **adjust rent first** as the lease permits and then find unit to swap
 - Adjust rent to 30% of the household's adjusted monthly gross income
 - Unit/project remains “temporarily out of compliance” until unit is swapped which for fixed may be a long time
 - Again, if project is short Low HOME units, must be replaced first

Example #4: Floating Low HOME unit income rises above 80%

- 8 HOME-assisted floating, 6 High (H) and 2 Low (L)
- Low HOME unit tenant recertified at 82% of AMI – over income



Increases in Tenant Income

Income between
50 - 80% AMI

MATTERS ONLY FOR LOW
HOME RENT UNITS



- Rent: **stays at Low HOME rent** until High HOME rent unit is designated as Low HOME rent
- Once replacement is identified, rent **adjusts to High HOME rent**
- Unit is now designated as a High HOME rent unit

Income greater than 80% AMI

SAME ACTIONS FOR HIGH AND LOW HOME UNITS



Fixed unit:

- Rent: raised to 30% of monthly adjusted income
- Next Available **HOME** unit must address High/Low HOME unit proportions
- No action for next available non-HOME unit

Floating unit:

- Rent: raise to LESSER OF 30% of monthly adjusted income or Comparable Market Rent
- Next available **non-HOME** unit
 - Must be designated as HOME unit and
 - Address High/Low HOME unit proportions

Example #4: Floating Low HOME unit income rises above 80% (cont)

- Next steps to maintain unit mix
 - For floating over income, **adjust rent first** as the lease permits and then find unit to swap
 - Adjust rent to the lesser of 30% of the household's adjusted monthly gross income, or
 - Comparable market rate unit rent
 - Identify next available (market or High HOME) unit at or below 50% of AMI
 - Low must be replaced first

Additional Resources

- *HOME Compliance Webinar Series:* <https://www.hudexchange.info/news/home-monitoring-webinar-series-spring-2021/>
- *Compliance in HOME Rental Projects: A Guide for PJs:* <https://www.hudexchange.info/resource/2394/compliance-in-home-rental-projects-a-guide-for-pjs/>
- *Compliance in HOME Rental Projects: A Guide for Property Owners:* <https://www.hudexchange.info/resource/2395/compliance-in-home-rental-projects-a-guide-for-property-owners/>
- Need technical assistance to prepare for HUD monitoring? [Request TA on the HUD Exchange](#)

Questions?

