Opportunities to Preserve Affordable Housing

Overview of the 210 Transfer Authority
Agenda

• Purpose of this Training
• What is the 210 Transfer Authority
• Comparison of Different Transfer Authorities
• Eligibility and Transfer Requirements
Purpose of Training

- When the market or a property’s physical conditions change, properties may be negatively impacted
- Certain properties may become physically obsolete or economically non-viable
- This may impact your ability to fulfill your business agreements with HUD
- HUD hopes to work collaboratively with owners to take innovative steps to preserve affordable rental housing
Purpose of Training

• Establish or strengthen awareness of HUD’s ability to Approve Requests for Transfers of Multifamily Housing Project-Based Rental Assistance, HUD-Held or Insured Debt, and Income-Based Use Restrictions (Federal Register Notice FR-5779-N-01)

• Provide owners of HUD-affiliated multifamily housing properties with preliminary information and tools to determine if HUD’s transfer authority can help address the needs of certain properties
What Is 210 Transfer Authority?

• The Department of Housing and Urban Development Appropriations Act of 2006 – and all the HUD appropriations acts since – provides a framework for HUD to approve requests for the transfer of project-based rental assistance, debt, and/or income-based use restrictions to another HUD-multifamily project(s)

• Historically, this authority has been authorized under different sections of the annual appropriations act, and therefore it has been referenced by different names over time, including 210, 212, and 214

• For simplicity, we will refer to 210 throughout this document
What Is 210 Transfer Authority?

• 210 is a preservation tool for certain multifamily properties that are struggling physically or financially.

• 210 allows HUD to approve an owner’s request for the transfer of some or all project-based assistance, capital advance, mortgage, and/or low-income or very low-income use restrictions to one or more “receiving properties.”

• 210 creates opportunities to redirect unused or underutilized subsidy to more viable properties.
HUD’s Other Transfer Authority

• HUD has transfer authority through two different programs:

  210 Transfer Authority
  – 210 provides HUD with the authority to approve requests to transfer project-based rental assistance, existing debt held or insured by HUD, and affordability restrictions from one multifamily housing project to another
  – 210 applies to certain multifamily housing

Section 8(bb) of the United States Housing Act of 1937
  – 8(bb) provides HUD with a tool to preserve the budget authority for project-based rental assistance (PBRA) under Section 8. Additional information on 8(bb) can be found here:
  – https://www.hud.gov/program_offices/housing/mfh/8bb
  – 8(bb) is limited to PBRA properties
Which Projects Are Eligible for 210?

- Existing multifamily housing properties with low-income and very low-income use restrictions
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Section 202 Direct Loan
- Flexible Subsidy Loan
- Any project with the following contracts:
  - Section 8 Housing Assistance Payments Contract (HAP)
  - Project Rental Assistance Contract (PRAC)
What Projects Are NOT Eligible for 210?

• Section 8 HAP contracts administered by the Office of Public and Indian Housing:
  – Section 8 Mod Rehab
  – Section 8 Project-Based Voucher HAP Contract

• Section 8 HAP contracts administered by the Office of Community Planning and Development:
  – Section 8 Mod Rehab HAP Contract

• Transferring properties located in a different state from the receiving property

• Any rental assistance contract pre-1974
Minimum Transfer Requirements

• Properties eligible to transfer must meet one of two standards (as well as other statutory requirements):
  – Physical obsolescence
  – Economic non-viability
Physical Obsolescence

Demonstrated in one or more of the following ways:

- A Real Estate Assessment Center (REAC) physical inspection score of 30 or lower
- Two or more consecutive REAC scores of below 60
- A taking through eminent domain
- Evidence that needed capital repairs cannot be made without the loss of financial viability
- Any other proof of physical obsolescence provided by the owner and approved by HUD
Economic Non-viability

Demonstrated in one or more of the following ways:

• A market analysis justifying the inability to meet current HUD-imposed affordability restrictions

• A market study indicating limited or no demand for the unit type(s)

• A demonstrated average vacancy of 25% or more over the past 24 months

• Any other proof of economic non-viability provided by the owner and approved by HUD
Responsibility to Tenants

- HUD requires that 210 transfers be in the best interest of tenants
- Transferring owners must ensure that existing tenants relocate to a property of greater economic stability and/or better physical condition
- Tenants should have access to the same types and amounts of support services before and after the transfer
- Tenants who choose not to relocate to the receiving property may be able to receive a tenant protection voucher to move to a property that best meets their needs and preferences
- See the Federal Register Notice for additional tenant-related requirements
Other Statutory Requirements

• Once the owner determines that the property is physically obsolete or economically non-viable, there are other statutory requirements the transaction and the receiving owner must meet. These include, but are not limited to:
  – Transfer cannot result in any increase in budget authority
  – Transaction must be in the tenants’ best interest
  – Receiving property must meet HUD standards

• See the Summary of 210 Transfer Authority Statutory Requirements [link] for more detailed information about these and other statutory requirements
Preserving Rental Assistance for Elderly –
Transfer of HAP Contract via Section 210

Covenant House II
Original occupancy 1976; matured loan;
102 units under HAP contract

Covenant Place II
New construction with HUD-insured loan,
LIHTC, and private funds; 102-unit HAP
transfer via 210
Preserving Rental Assistance for Persons with Disabilities –
Transfer of 202 Use Agreement and HAP Contract

Transferring property
• 10 Group Homes built in the 1980s
• 5 units with shared kitchen and baths
• Prepaid 202 with HAP and Use Agreement
• Nebraska regs limit group homes for persons with developmental disabilities to 3 tenants
• 30 units transferred due to economic non-viability

Receiving property
• 3 non-HUD affiliated apt. buildings
• 8, 10, and 12 one BR independent living units
• Meets integrated setting standard
Preserving Rental Assistance for Persons with Disabilities –  
Transfer of 811 PRAC with Capital Advance

Transferring property

- 8-person group home for adults with developmental disabilities
- Mid-1990s 811 PRAC and Capital Advance
- 2-story property with aging residents
- Infeasible to rehab or improve the existing site
- HUD architect declared property physically obsolete
Preserving Rental Assistance for Persons with Disabilities –
Transfer of 811 PRAC with Capital Advance

Receiving property

- Two new-construction 4-person group homes
- Designed to meet or exceed all applicable accessibility requirements
- 210 Transfer: Mortgage, mortgage note, regulatory agreement, use agreement and PRAC for 8 units
- Supported by state health and housing agencies
Can Your Property Use 210?

- **Step One**: Use the 210 Owner Checklist to determine if your property may meet the minimum transfer authority requirements. The checklist can be found here [link]

- **Step Two**: Contact your local HUD Field Office to discuss your property’s challenges and to discuss whether 210 or an alternative solution is the right path for your property
Additional Resources

• Summary of 210 Transfer Authority Statutory Requirements [link]
• 210 Transfer Authority Definitions [link]
• Case studies [link]
• Federal Register
• Owner Checklist [link]
Questions