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Presidential Perspective - Consistency in Business

If there is one thing you can say for sure about the Affordable Housing Industry is “nothing IS for sure until it changes!” Never has this been more evident to me than in my travels to the different SAHMA State Meetings while serving as SAHMA President. Maintaining consistency and compliance on our properties is imperative. We treat each person with the same demeanor and respect, not because we all subscribe and practice Fair Housing, but because it is the right thing to do and good business.

We all know from personal experience that inconsistency is prevalent in our business, but with SAHMA's training, we all can become consistent. It has been a great learning experience for me to attend the SAHMA State Meetings. I had the pleasure to meet members and partners from our entire region, and we shared our experiences and procedures which gave me an overview of how complex our business is, and how vital SAHMA is to our industry. What would we do without this organization that brings us all together to learn, share and develop relationships? We would be lost! SAHMA gives us the venue to come together to get informed, get educated and to connect our community of affordable housing professionals.



PRESIDENT of
Southern Development Management Company, Inc.

Reese B. Quick
SAHMA PRESIDENT

Communication is our first step towards consistency. The participation of the Regulatory Partners is always very important. We are now without most of our state HUD offices and the personnel we have worked with for years, so we have some new names, roles, and relationships to build. Our relationships with our PBCA, State Housing, and RD partners continue to strengthen and we are very grateful for their support and participation. There were so many items of discussion, like the new utility analysis procedures, HUD's Fair Housing criminal activity memo, streamlining HUD communications to different locations that we are not accustomed to, and now MORs are coming back, just to name a few of the topics discussed in each state. While discussing the current topics of importance, it was also beneficial to discuss any new procedures in the open forums SAHMA provided.

Cooperation from Owner/Agents is, also imperative to maintain consistency and compliance. That is why attending SAHMA is so very important. Education gives us knowledge and the latest information in our ever-changing business, and the sessions and classes this year were outstanding. We have always been fortunate to have great support from our industry in providing educational resources for SAHMA. Coming soon, SAHMA will be offering an eLearning on-demand opportunity in addition to their conference call learning, webinars, and instructor lead classes. I urge you to take advantage of these tools, especially the on-demand eLearning since you can choose the place and time at your convenience. The more we know, the better our job performance, and we all want to be the best of the best.

Appreciation should be a constant in our world too. SAHMA offers Excellence in Management, Excellence in Maintenance and Excellence in Service Coordinator recognition. Could you take a moment to assist your Property Manager, Maintenance Technician or Service Coordinator to attain this recognition? Are they not appreciated? Please consider taking the time to review the applications, and give your employees the opportunity to be recognized for their hard work by their peers. It is little to ask but would give so much. And remember, be consistent! All of your property personnel deserve the opportunity to attain this achievement.

The State Meetings have now concluded and please allow me to thank all of the volunteers for their continued support of SAHMA, and all of their hard work. You are appreciated each and every one. I also thank the SAHMA staff for making my job as your SAHMA President such a meaningful experience. Let's all enjoy the summer, and plan to meet next at the SAHMA Regional Conference in Jacksonville, Florida August 15th – 17th. And just to be consistent, let's all go!

Words from Washington - Disparate Impact and You...

George C. Caruso, CPM, RAM, SHCM, HCCP

The Cooper Companies - Consultants

As you have heard by now on April 4, the Office of General Counsel at HUD issued a lengthy new guidance document; it is the new standards for application of the Fair Housing Act to the Use of Criminal Records by Providers of Housing and Real Estate Related Transactions. While this is not the most exciting title we have seen in a while, this is a major change in policy by HUD, and will have an impact on all rental real estate; Assisted, Conventional, Tax Credit and Affordable.



In addition to issuing this guidance, HUD's public relations folks got two major articles on the issue into the New York Times Metro Section and the Wall Street Journal on April 4. Both articles were major items in prominent positions, this press coverage was more extensive than almost any policy memo we have seen in the last couple of years, this is a new major initiative by the White House with HUD leading the charge.

A bit of background, you may recall that mid-year last year the Supreme Court affirmed a Court of Appeals decision in a case in which a nonprofit group, the Inclusive Communities Project, said that the Texas Department of Housing and Community Affairs had contributed to "segregated housing patterns by allocating too many tax credits to housing in predominantly black inner-city areas and too few in predominantly white suburban neighborhoods." The decision broadened the tests for Disparate Impact claims.

At the time, many observers of HUD thought that this decision would bring about a revision of HUD's general standards on disparate impact. This new policy guidance is the first major policy change to come from the Texas Department of Housing ruling.

Quoting Secretary Castro directly "Right now, many housing providers use the fact of a conviction, any conviction, regardless of what it was for or how long ago it happened, to indefinitely bar folks from housing opportunities," Secretary Castro also noted. "Many people who are coming back to neighborhoods are only looking for a fair chance to be productive members, but blanket policies like this unfairly deny them that chance."

The new federal housing guidance applies the Texas case and allows an applicant to challenge housing practices that have a discriminatory effect without having to show discriminatory intent. The ruling allows plaintiffs to show instead that the practices both have a "disparate impact" on racial groups and are not justified. Blacks and Latinos are arrested, convicted and imprisoned in disproportionate numbers, and civil rights groups say they face equally disparate discrimination in finding housing.

Federal housing officials said the guidance was meant to emphasize to landlords that blanket bans are illegal, as well as to inform housing applicants of their rights. Housing officials said they can investigate violations and bring discrimination charges against landlords that could result in civil penalties for them, and damages for a person denied housing.

What HUD has done, it appears, is take both Supreme Court cases and very carefully draw from them a policy that will require us as owners and operators to be much more analytical and precise in determining what in someone's criminal background is a reasonable reason to deny them admission or continuing occupancy.

We have had an opportunity to discuss the new policy with HUD. Their main thrust in issuing the revisions is to support the efforts of the President in helping to ensure that persons reentering the workforce and housing markets after addressing a criminal violation are treated fairly, and that the restrictions on housing are appropriate to ensure safe communities but at the same time ensuring that someone is not forever precluded from obtaining housing based on behavior long in the past.

In our discussions with HUD so far it is clear that they are not going to set out a safe harbor standard, rather they have set out the general principle that we have to tailor our policies to prevent disparate impacts among applicants for all forms of housing, Conventional, Affordable, and Assisted.

SO... HOW DO WE HANDLE THIS CHANGE?

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The short snide answer is very carefully, but from what we have been able to glean so far here are the major steps you should consider:

- Review all of your Admission Policies
- Where required, rewrite your Tenant Selections Plans
- Stop using arrest records in your selections with the exception of cases where an arrest has occurred but the trial or plea is still pending. In those cases, you can defer admission decisions until the pending matter is resolved if it is for a serious violent crime or drug manufacture or distribution charge.
- Change your admission procedures so that the criminal records check is done last.
- Develop a tailored policy on what criminal activity is significant enough to exclude someone from admission.
- Develop a “look back” policy for when an offense occurred.
- Have a method for individuals seeking admission to present mitigating and extenuating circumstances which would consider when the conduct occurred, what the history has been since then, and rehabilitation. HUD has suggested but not explicitly stated that a seven year lookback from conviction is a good time limit.

With HUD's new approach here we now have to sort out which offenses are significant enough to bar admission, and which may not be an absolute bar. While this is easy to say, to have policies that are consistent in application is a lot harder than it looks. In establishing your new standards you have two issues to consider:

- How serious was the criminal activity?
- When did it occur?

Clearly, violent crimes against persons can be reasons for either permanent or long bans from admission; you will need to develop your own list, but here are some suggestions for long or permanent bans.

Murder (any class), Manslaughter, Rape, Attempted Murder, Assault with a weapon, Armed Robbery, Arson resulting in injury, Vehicular Homicide or Manslaughter, Drug Manufacture or Distribution (Felony level).

To this list you would apply a lookback period, all the crimes noted above are serious enough that, without significant mitigating factors, you would generally not want to admit someone with a conviction in these areas since they present a significant risk.

There have been questions raised about admitting persons on a Sex Offender registry. We have raised that issue with HUD, and while they did not want to answer definitively in our recent meeting we are expecting clarification on that. Since HUD established those policies, and they are for the safety of persons in your properties, anyone on a sex offender registry can continue to be excluded unless they can present very significant mitigating evidence. Under these new standards it will be necessary for you to research any positive matches you get on a registry to ensure that the applicant is actually the person on the registry.

As you can see, the policy changes noted above will give you a thought through, well-reasoned policy that protects the other residents in the property but at the same time will allow someone who had a minor offense a long time ago and has been a good citizen since the end of their sentence to be admitted.

The key thing to keep in mind as you formulate your policies is that the burden of proof on demonstrating they are reasonable is now on you. This is a significant change in policy since the one strike rules were promulgated by HUD in 1995, and you now will have to affirmatively defend all your admission decisions for relevance, consistency, and reasonableness.

Finally, HUD has indicated in our discussions that they will look at not just a single site, but at the consistency of decisions across a firm, to ensure that the policies that have been established are being applied uniformly.

Since these policy changes were issued with immediate effect, you need to start your review and policy establishment now.

SAHMA continues to monitor this change, and we will advise you as we get more clarification from HUD. In addition, a great general session on this topic is scheduled at the upcoming SAHMA Regional Conference.

George C. Caruso, CPM, RAM, SHCM, HCCP
SAHMA Director Emeritus
The Cooper Companies - Consultants

Specialist in Housing Credit Management® (SHCM®)

The Specialist in Housing Credit Management® (SHCM®) certification has been developed by the National Affordable Housing Management Association (NAHMA) especially for management professionals involved with properties developed and operated under the Low Income Housing Tax Credit (LIHTC) program. The SHCM is designed by management professionals for management professionals to ensure they have attained the knowledge, experience and competence required to excel in the housing credit property management industry.

As experienced affordable housing management professionals know, the LIHTC program is the primary production tool for creating new affordable housing properties across every state in the country, and it is also the most important tool for rehabilitating and preserving the nation's existing stock of aging affordable housing. To maximize their careers, management professionals in the affordable housing industry must be able to demonstrate their experience and expertise in mastering the complex requirements of the LIHTC program. Earning your SHCM enables you to do just that.

The SHCM is offered in association with the National Apartment Association Education Institute (NAAEI) and LeadingAge, formerly the American Association of Homes and Services for the Aging (AAHSA).

To earn a SHCM, candidates must:

- **Education** – successfully accumulate a minimum of 12 hours (actual instruction time) of housing credit specific coursework or training from an approved provider* within two years of sitting for the SHCM exam

Use your SAHMA Certificate (Here are some examples!)

Webinar Training = 1.5h CEU
Conference Call Learning = 1.5h CEU
State Meetings = average 6h to 8h CEU
Regional Conference = 9.5h CEU
Tax Credit + SCHM exam Course = 12h CEU

- **Examination** – successfully pass the SHCM exam. Visit www.sahma.org/management-tools/ to order your online exam.
- **Professional Experience** – demonstrate a minimum of two years of housing credit management employment experience through an application process
- **SHCM Code of Professional Conduct** – commit to a defined code of professional conduct.
- **Complete Application** – submit your SHCM application along with the \$150 application fee. Visit www.nahma.org/education/specialist-in-housing-credit-management/ to find the application.

SHCM certification is valid for one year and must be renewed annually each September 1st. Renewal consists of six hours of housing credit specific coursework or training by an approved provider* per year and \$155 renewal fee.

SAHMA Rocks!

Register NOW for the **2016 SAHMA Regional Conference for Affordable Housing**, August 15-17, 2016 at the Hyatt Regency Jacksonville-Riverfront, 225 Coastline Dr., Jacksonville, Florida! Click here to register.

This year's Conference Chair, Jim Nasso, SAHMA President-Elect, invites everyone to get ready for an ALL ACCESS PASS! We'll have great sessions facilitated by some Rock Star speakers as well as a keynote presentation by Ryan Sauers, "Everyone is in Sales", a fantastic trade show luncheon, and a Monday night event you will not soon forget with dinner and live band at Fionn MacCool's Irish Pub & Restaurant (within walking distance of the Hyatt Regency).



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With the return of Management Occupancy Reviews (MORs), we are offering a unique opportunity with a morning session (10:15 – 11:30 am) on Monday, August 15th where we will have breakout rooms for our PBCA partners who do business in our region. They will facilitate briefing sessions on their expectations as they return to performing MORs and an opportunity for you to ask questions and have a meaningful dialogue. It has been many years since MORs were a regular part of everyone's schedule so this is a great time to be in a room with the folks who will be coming out to perform MORs at your properties. Each PBCA will have a different room so they can concentrate their conversation on their state(s). If you do business in more than one state, you will want to be sure and have enough folks registered for the conference to have a company representative in the appropriate session rooms. We have confirmation that Navigate Affordable Housing Partners, Kentucky Housing Corporation (KHC), National Housing Compliance (NHC), SC State Housing Finance and Development Authority (SC Housing), Tennessee Housing Development Agency (THDA), NC Quadrel, and North Tampa Housing Development Corp., will all be participating. There is no additional cost for this session it is part of your regional conference registration package, and we will ask you to check it off on your registration form, so we know how many attendees to expect. After the MOR session with the PBCA's, you will have a couple of hours of free time to grab lunch on our own and be ready for our conference opening kickoff session at 1:30 pm.

On Tuesday, we'll have sessions on Tax Credit issues with presentations by Novogradac & Company, LLP, Dauby O'Connor & Zaleski, LLC, Tapestry Development Group and a Tax Credit Compliance discussion. Other topics include; Green to Extreme, Rent Comparability Studies, Reasonable Accommodations, Implications of Disparate Impact on Occupancy Policies, Human Resources, Advanced Assist Animals, Improving Your Performance as well as your Company's, Technology, MAP Guide, Advanced Preservation Tools, and a discussion about capital needs in "The Mortgage Runs to 2054, Will the Building Make it to 2054?". On Wednesday, August 17th, after our networking breakfast make plans to stay for the hot topic "2016 Guidance for Criminal History Screening" session facilitated by Kathi Williams and Michael Johnson, followed by a Washington Update by Larry Keys, Director of Government Affairs, NAHMA.

When you check out the registration form and details on our website, you will see the great list of notable industry expert speakers we have on tap this year. Our Vendor show will be great as well, so you won't want to miss the opportunity to visit with the SAHMA Vendors who support and participate in SAHMA and our events all year long.

We are looking forward to seeing you there. Register early and make sure to reserve your hotel room(s) quickly before they sell out. See you in Jacksonville for a Rockin' good time!

Who Will it Be in 2016?

Sisson/Ownby Rising Star Award Nominations Due June 17th

Do you have someone in your organization or know of someone in our industry who is uniquely gifted and inspiring? Is working their way up the professional ladder one rung at a time? With this award we'd like to recognize a deserving member of our affordable housing community and award them a **\$1,000 tuition honorarium** so they can continue up the ladder and fulfill their professional goals.

All YOU have to do is nominate a deserving individual! Send us a letter containing complete contact information for you and your nominee. Make sure to provide details relating to the questions below. You may nominate as many persons as you feel deserve this honor. Naturally, your nominee must be employed by a SAHMA member company.

There is no fee associated with this nomination. Simply provide a letter of nomination, along with this nomination form, and send to sisson-ownby@sahma.org or fax to 800-743-8278 by the deadline. What better way to recognize an industry rising star? For more information, visit www.sahma.org/sisson-ownby.



2015 Winner Michelle T. Daniels



2014 Winner Tijua Robinson