NAHMA Rural Housing Update: Civil Monetary Penalties Final Rule

Dear NAHMA Member,

USDA's Rural Development recently issued the following final rule concerning Civil Monetary Penalties, which are used to remedy noncompliance in the Section 521, Rental Assistance and Section 515, Rural Rental Housing Loan programs.

RD first proposed changes to CMPs in a proposed rule first published in the Federal Register on January 4, 2013. In this proposed rule, the Agency cited its plans to amend its regulations to create a new section for imposing civil monetary penalties. The clarifications and changes included in the proposed rule sought to address the following issues for CMP:

1. Procedures for the determination of the civil monetary penalties;
2. Procedures for the administrative hearing;
3. Establishing fines; and
4. Procedures for the collection of fines

In comments sent to RD regarding the proposed rule, NAHMA stated that it could not the changes as suggested at that time. We noted that the proposed rule was too broad and completely failed to define the number and scope of penalties. Furthermore, NAHMA members were troubled by the prospect of facing CMPs related to the physical or financial condition of properties for which the Agency had denied rent increases or additional rental assistance necessary to improve the properties.

In the final rule, RD cited that over 20 responders to the proposed rule had commented on the vagueness and need for clarification. To address these concerns, RD has made clear that "the majority of borrowers and management agents within the multifamily portfolio comply with Agency regulations and procedures and will not be affected by this rule." NAHMA will examine all provisions of the final rule and will update members accordingly.

The final rule is attached to this message and may be found on the NAHMA website here.

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