

Secretary for Housing-Federal Housing Commissioner that were previously administered by the Director of HUD's Office of Multifamily Housing Assistance Restructuring (OMHAR).

**EFFECTIVE DATE:** October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing—Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, Room 9110, Washington, DC 20410–8000, telephone (202) 708–0614. (This is not a toll-free number.) Persons with hearing or speech impairment may call HUD's toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

**I. Discussion of Delegation of Authority**

OMHAR was established under the Multifamily Assisted Housing Reform and Affordability Act (Title V of Public Law 105–65, approved October 27, 1997), 42 U.S.C. 1437 (MAHRA). On January 10, 2002, the President signed the Mark-to-Market Extension Act of 2001 (Title VI of Public Law 107–116), amending various programmatic and administrative provisions of MAHRA. MAHRA provides the Department with tools enabling it to restructure the mortgage financing of eligible Secretary-held or HUD-insured projects that receive project-based assistance where necessary to extend their long-term viability. The restructuring program is referred to as the Mark-to-Market program as it is designed to make the rents charged by an insured, assisted project commensurate with prevailing rents in the locality. Recognizing that some projects with above market rents might be unable to maintain economic viability if their rents were brought down to market, the legislation allows HUD to restructure a project's mortgage financing, if necessary. This enables HUD to preserve low-income housing, while the federal government saves money by reducing rent subsidies.

Section 579 of MAHRA states that OMHAR and the position of the Director of OMHAR terminate on September 30, 2004. However, section 579 provides further that on and after October 1, 2004, (1) the Department will continue to engage in restructuring activities previously administered by OMHAR through September 30, 2006, and thereafter, with respect to projects and programs for which binding commitments have been entered into prior to October 1, 2006, and (2) OMHAR's pertinent authority and responsibilities are transferred to the Secretary.

Specifically, section 579 states that subtitle A of MAHRA (titled FHA Insured Multifamily Housing Mortgage and Housing Assistance Restructuring), except for section 524 (titled Renewal of Expiring Project-Based Section 8 Contracts) is repealed effective October 1, 2006. An exception to this repeal allows HUD to continue to apply the provisions of subtitle A “with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2006.” Accordingly, although MAHRA terminates OMHAR at the end of September 30, 2004, HUD's authorization to restructure mortgages will continue for a period of at least two years beyond that date.

Effective October 1, 2004, the Secretary is delegating this authority and attendant responsibilities to the Assistant Secretary for Housing-Federal Housing Commissioner. The Assistant Secretary for Housing-Federal Housing Commissioner has been overseeing the operations of OMHAR since January of 2002, when a new section 578 (titled Oversight by Federal Housing Commissioner) was included among the amendments to MAHRA. This oversight authority terminates on September 30, 2004, the same date upon which OMHAR is terminated. Upon the termination of OMHAR, responsibility for the actual conduct of the mark-to-market program will rest with the Assistant Secretary for Housing-Federal Housing, who is authorized to redelegate this authority.

**II. Authority Delegated**

The Assistant Secretary for Housing-Federal Housing Commissioner is delegated the power and authority of the Secretary of HUD to carry out the provisions of MAHRA, 42 U.S.C. 1437f note, and to redelegate such authority.

This delegation supersedes and revokes all authority previously delegated to the Director of OMHAR.

**Authority:** Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 7, 2004.

**Alphonso Jackson,**

Secretary.

[FR Doc. 04–23697 Filed 10–21–04; 8:45 am]

**BILLING CODE 4210–32–P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR–4901–N–43]

**Federal Property Suitable as Facilities To Assist the Homeless**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** October 22, 2004.

**FOR FURTHER INFORMATION CONTACT:** Kathy Burruss, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988, court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 14, 2004.

**Mark R. Johnston,**

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04–23404 Filed 10–21–04; 8:45 am]

**BILLING CODE 4210–29–M**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR–4837–D–55]

**Revocation and Redlegation of Authority: Office of Affordable Housing Preservation**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice of revocation and redlegation of authority.

**SUMMARY:** Published elsewhere in today's **Federal Register**, the Secretary of HUD issued a delegation of authority

to the Assistant Secretary for Housing—Federal Housing Commissioner (Assistant Secretary) authorizing him to carry out the provisions of the Multifamily Assisted Housing Reform and Affordability Act (MAHRA). Under this notice, the Assistant Secretary is redelegating authority to carry out provisions of MAHRA to the General Deputy Assistant Secretary—Deputy Federal Housing Commissioner (General Deputy Assistant Secretary) and to staff within the Office of Affordable Housing Preservation.

**DATES:** Effective October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Eliot C. Horowitz, Senior Advisor to the Assistant Secretary for Housing—Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, Room 9110, Washington, DC 20410–8000, telephone (202) 708–0614. (This is not a toll-free number.) Persons with hearing or speech impairments may call HUD's toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** The Mark-to-Market program was established under the Multifamily Assisted Housing Reform and Affordability Act, Title V. of Public Law 105–65 (approved October 27, 1997), 42 U.S.C. 1437f note, as amended (MAHRA). Under the Mark-to-Market program, HUD is authorized to restructure the mortgage financing of projects, financed with HUD-insured or HUD-held mortgages and receiving project-based Section 8 assistance. As originally enacted, MAHRA provided for the establishment of the Office of Multifamily Housing Assistance Restructuring (OMHAR), for the purpose of administering the program. However, present amendments to MAHRA provide for the elimination of OMHAR as of September 30, 2004, and for the continuation of the Mark-to-Market program subsequent to that date.

Elsewhere in today's **Federal Register**, the Secretary has delegated to the Assistant Secretary for Housing—Federal Housing Commissioner responsibility for administering the Mark-to-Market program after September 30, 2004. For the purpose of carrying out those responsibilities, the Assistant Secretary for Housing is creating the Office of Affordable Housing Preservation (OAHP), a new office within the Office of Housing. OAHP will be responsible for carrying out HUD's Mark-to-Market program.

Under this redelegation of authority, the Assistant Secretary is redelegating authority to administer the program to the General Deputy Assistant Secretary and to various officials within OAHP.

The Office of Affordable Housing Preservation is headed by a Deputy Assistant Secretary (DAS) and an Associate Deputy Assistant Secretary (ADAS). OAHP is headquartered in Washington, DC and has two field offices; one located in Washington, DC, the other in Chicago, IL. OAHP also has staff out-stationed in New York City.

Within this redelegation, the Assistant Secretary is redelegating authority to the General Deputy Assistant Secretary; the OAHP Deputy Assistant Secretary; the OAHP Associate Deputy Assistant Secretary; OAHP Directors; OAHP Deputy Directors; the Bonds and Appeals Manager, at headquarters; and the Rehabilitation Escrow Administration Division Manager, out-stationed in New York City.

Based upon the foregoing, the Assistant Secretary for Housing hereby redelegates authority as follows:

#### **I. Authority Redelegated**

A. The Assistant Secretary for Housing redelegates to the General Deputy Assistant Secretary (GDAS) the following authority:

All authority necessary to carry out the provisions of the Mark-to-Market Program, 42 U.S.C. 1437f note, except for the authority to issue and/or waive regulations; and except for the authority to sue and be sued.

B. The Assistant Secretary for Housing redelegates to the OAHP Deputy Assistant Secretary (DAS) and to the OAHP Associate Deputy Assistant Secretary (Associate DAS), the following authority:

(1) To modify and sign any documents necessary to perform enumerated functions and to waive any directive issued by OAHP that is not mandated by a statute or regulation.

(2) To administer all provisions of MAHRA, including but not limited to the following:

(a) To make eligibility determinations under sections 512 and 516 of MAHRA;

(b) To enter into, modify and or extend agreements with participating administrative entities under section 513 of MAHRA;

(c) In connection with a restructuring transaction, to make rent and/or mortgage restructuring determinations under sections 514, 515, 517 and 524; and

(d) To terminate, modify or affirm any decision on appeal under MAHRA.

(3) In connection with a restructuring transaction, to modify the principal balance, payments, interest rate, and amortization period and other terms of existing FHA insured and HUD-held mortgages including any HUD or Secretary-held subordinate debt

encumbering or otherwise related to a project; and to issue restructuring commitments and closing documents relating to such debt.

(4) To issue HUD forms 92264 and 92264A upon approval of a restructuring plan.

(5) In connection with a restructuring transaction, to approve transfers of physical assets.

(6) In connection with a restructuring transaction, to approve environmental assessment and compliance findings for related laws report, HUD form 4128.1.

(7) To issue a commitment to insure and endorse for insurance a mortgage note given to refinance a HUD-insured or HUD-held mortgage, pursuant to section 223(a)(7) of the National Housing Act (12 U.S.C. 1715n).

(8) For qualified nonprofits acquiring projects that are the subject of a restructuring transaction, to modify, assign or forgive debt created in the restructuring.

(9) To administer escrow accounts and modify the agreement established under the restructuring transaction, for the purpose of addressing immediate and near term rehabilitation needs of a project.

(10) To perform all source selection official duties, subject to laws, regulations, and HUD policies and procedures governing the procurement process.

(11) To administer grant programs, other than selecting a grantee as only the Assistant Secretary for Housing is authorized to function as the Grant Official for the Office of Housing.

C. The Assistant Secretary for Housing redelegates to each OAHP Director and OAHP Deputy Director, in the Field Offices and at Headquarters, the following authority:

(1) To modify and sign any documents necessary to perform enumerated functions and to waive any directive issued by OAHP that is not mandated by a statute or regulation.

(2) To administer the following provisions of MAHRA:

(a) To make eligibility determinations under sections 512 and 516 of MAHRA;

(b) In connection with a restructuring transaction, to make rent and/or mortgage restructuring determinations under sections 514, 515, 517 and 524; and

(c) To reject or hear and decide any appeal made to the Production Office under 24 CFR 401.645 or other permissible procedure.

(3) In connection with a restructuring transaction, to modify the principal balance, payments, interest rate, and amortization period and other terms of existing FHA insured and HUD-held

mortgages including any HUD or Secretary-held subordinate debt encumbering or otherwise related to a project; and to issue restructuring commitments and closing documents relating to such debt.

(4) To issue HUD forms 92264 and 92264A upon approval of a restructuring plan.

(5) In connection with a restructuring transaction, to approve transfers of physical assets.

(6) In connection with a restructuring transaction, to approve environmental assessment and compliance findings for related laws report, HUD form 4128.1.

(7) To issue a commitment to insure and endorse for insurance a mortgage note given to refinance a HUD-insured or HUD-held mortgage, pursuant to section 223(a)(7) of the National Housing Act (12 U.S.C. 1715n).

(8) For qualified nonprofits acquiring projects that are the subject of a restructuring transaction, to modify, assign or forgive debt created in the restructuring.

D. The Assistant Secretary for Housing redelegates to the Rehabilitation Escrow Administration Manager, the following authority:

(1) To modify and sign any documents necessary to perform enumerated functions related to the rehabilitation needs of a project that was the subject of a restructuring transaction, and to waive any directive issued by OAHF that is not mandated by a statute or regulation.

(2) To administer escrow accounts and modify the agreement established under the restructuring transaction, for the purpose of addressing immediate and near term rehabilitation needs of a project.

E. The Assistant Secretary for Housing redelegates to the Bonds and Appeals Manager, the following authority:

(1) To modify and sign any documents necessary to perform enumerated functions related to appeals under MAHRA and/or the regulations promulgated under MAHRA.

(2) To reject or hear and decide any appeal under MAHRA and/or the regulations promulgated under MAHRA except for 24 CFR 401.645

## II. Authority Excepted

The authority redelegated herein does not include the authority to issue or to waive HUD regulations. The authority redelegated herein also does not include the authority to sue or be sued.

## III. Further Redelegation

The authority redelegated herein may not be further redelegated.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 7, 2004.

**John C. Weicher,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 04-23698 Filed 10-21-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan and Receipt of a Permit Application (Family Crisis Center) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Family Crisis Center (Applicant) has applied for an incidental take permit (TE-094076-0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and operation of a retail thrift store on a 1.38-acre property located on State Highway 71 in the Tahitian Village Subdivision, Bastrop County, Texas.

**DATES:** To ensure consideration, written comments must be received on or before December 21, 2004.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the Environmental Assessment/Habitat Conservation Plan (EA/HCP) may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490-0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service Office, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE-094076-0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at U.S. Fish and Wildlife

Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the EA/HCP for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

**Applicant:** The Family Crisis Center plans to construct a retail thrift store within 5 years, on a 1.38-acre property located on State Highway 71 in the Tahitian Village Subdivision, Bastrop County, Texas. This action will eliminate 1.38-acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing \$2,760.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Pursuant to the June 10, 2004, order in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D. D.C.), the Service is enjoined from approving new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with public notice and comment requirements of the Administrative Procedure Act. This notice concerns a step in the review and processing of a section 10(a)(1)(B) permit and any subsequent permit issuance will be in accordance with the Court's order. Until such time as the Service's authority to issue permits with "No Surprises" assurances has been reinstated, the Service will not approve any incidental take permits or related documents containing "No Surprises" assurances.

**Bryan Arroyo,**

*Acting Regional Director, Southwest Region.*

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