

## HUD's Extortion Scam Revealed

The Department of Housing and Urban Development began breaching contracts with the owners of Section 8 multifamily housing in 1995 by denying these owners automatic rent increases that are mandated in the 20 year Housing Assistance Payment (HAP) contracts. Over 90% of all the income derived from these properties comes from the rent subsidy agreement known as the "HAP Contract".

When these contracts were initially written, each property was required by HUD to be established in the form of a limited partnership, as a stand alone entity. The partners of these entities were lured by HUD into these investments in the late 70's and early 80's through provisions of the tax code that gave them tax relief against their ordinary income in the form of accelerated depreciation. Because no one would have been willing to invest money in a low income property if they were required to finance these apartments beyond the initial investment, these projects were set up through HUD regulations to be non-recourse investments. The properties were also required by HUD to be built according to Minimum Property Standards (MPS), which in many cases did not allow the owners to include air conditioning, carpeting, or other such comfort features that would have allowed them to be used for other than low income housing.

When HUD began violating HAP contracts in this manner, owners were informed by HUD that they would be held financially liable for any operating shortfall on the property. Owners who did not comply and provide additional funds to these properties were subsequently targeted, sued and foreclosed upon, forcing the limited partners involved to pay recapture on taxes.

The government changed the tax code in 1986, making each of these Section 8 properties virtually worthless. While HUD continued in their policy of refusing to provide adequate funding through rent increases, HUD used the threat of foreclosure and the subsequent tax recapture to extort money from the owners. The attached excerpts from the HUD Special Workout Assistance Teams SWAT Training Manual clearly show a conspiracy that was devised by HUD to coerce owners into funding operations and maintenance of these now seriously deteriorating properties. The SWAT Manual instructs HUD employees in tactics to maneuver owners and investors into a position from which they can be blackmailed into cooperation (SWAT TRAINING and BACKGROUND ON OWNERS by Sara E. Johnson).

The question of the extent of the owner's responsibility for funding operations and maintenance of the properties has been legitimately clarified in Federal Court. The following list of attached cases with highlighted excerpts show HUD's desperate attempts to shift their responsibility for the funding these Section 8 properties to the owners, in clear violation of the original contracts.

**Christopher Village vs. Nicholas P. Retsinas:**

“Nothing in the National Housing Act, HUD’s regulations, the Regulatory Agreement, or the HAP contract requires Village, as a low income property owner, to absorb or subsidize operating and maintenance deficiencies. Instead, the programs are designed to ensure that HUD establishes rental rates so that property owners receive enough revenue to cover all of the property’s expenses including maintenance, repairs, debt service, taxes, and a six percent return on investment. Thus, the HUD reimbursement scheme resembles cost-plus contracts or public utility regulation, in either of which situations the private party who performs the work is assured of recovering reasonably incurred costs as well as a reasonable return on investments.

That the cost of operating and maintaining the property in addition to the cost of complying with the Regulatory Agreement, must be paid for out of the regulated rental revenues is reinforced in several ways. First, HUD’s internal interpretation of its regulations indicates that operating and maintenance costs are to be derived from the rental revenues. Albert Cason, the Director of Multifamily Housing (Houston, Texas Office) and the HUD official who oversaw Mockingbird, testified that “[e]verything that comes from the project’s operation is paid from the rents,” and “[w]e’ve all agreed that the operation and maintenance of the property comes out of the rents.”.....Similarly, HUD’s handbook states that “[i]n reviewing requests from owners concerning rents and charges, the Field Office should be guided by the fact that these rents and fees should and must provide sufficient and adequate funding to operate the projects.”.....Second, HUD forced Village to be organized as a single asset entity, which can neither own or operate any other property nor conduct any other business besides owning the property.....Because of this requirement, Village had no source of income to maintain the property other than the rental revenues. The only way for it to obtain a sufficient amount of money to pay for the needed repairs was by seeking a rent increase. HUD’s refusal to consider a rent increase effectively forced Village either to default or, as HUD well knew, to seek additional equity or debt financing without assurance that these investments would be recouped.”

**Nail vs. Martinez**

“HUD has debarred Plaintiffs herein for their failure to invest private funds to maintain the Eastover and Metro Manor properties. Therefore, the Court finds that the decision by HUD to debar Plaintiffs was arbitrary and capricious, and not in accordance with the law.....HUD is not now entitled to return to the administrative law procedures for a second bite at the apple simply because it chose an unsound legal theory on which to proceed.”

**United States of America vs. Southland Management Company**

“. . .this is a case that should never have been brought.”

