

# **HOME PROGRAM REQUIREMENTS YEAR 2012**

## **OWNER'S GUIDE**

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# **INTRODUCTION**

The purpose of this guide is to provide owners of buildings rehabilitated using HOME funds with information on the various requirements of the HOME program. The primary goal of the HOME program is to provide affordable housing for low and very low-income households. It is essential that participating owners verify and document the eligibility of all tenants selected for occupancy in a HOME assisted unit. Accordingly, emphasis in this guide is placed on tenant income and rent limits. Owners should carefully review the information in this guide pertaining to income and rent limits.

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## 1.0 ABOUT THE PROGRAM

### 1.1 PROGRAM BACKGROUND

The HOME Investment Partnerships Act (The HOME Act, Title II of the Cranston-Gonzalez National Affordable Housing Act) was signed into law on November 28, 1990, and created the HOME Investment Partnership Program to expand the supply of decent, affordable housing for low and very low-income households. Since enactment, the original statute has been amended three times and a final rule was issued on September 16, 1996. **(PROPOSED REVISION CIRCULATED FOR COMMENT IN JANUARY 2012)**

The Department of Housing Preservation and Development utilizes federal HOME funds to finance the construction of new and the rehabilitation of existing housing; including vacant and occupied single room occupancy buildings (SRO), small homes (buildings with fewer than 12 units) and multi-family buildings. The use of HOME funds requires owners to meet certain federal requirements indicated below.

- Rent Levels
- Relocation of Tenants
- Home Unit Designation
- Housing Quality Standards
- Environmental Standards
- Lead Paint Notification and Abatement
- Labor Standards/ Prevailing Wages
- Affirmative Marketing

### 1.2 PROGRAM OVERVIEW

In general, a HOME project can be viewed as going through three stages:

- 1) PRE-DEVELOPMENT
- 2) CONSTRUCTION/PROJECT COMPLETION
- 3) POST COMPLETION MONITORING

Below is a brief description of each stage. It is important for owners to consult with their HPD Loan Program Officer to ensure that all of the HOME requirements are met during the Pre-Development and Construction stages. This will ensure that subsequent Post Completion Monitoring will not result in any findings of non-compliance.

#### STAGE 1: PRE-DEVELOPMENT:

**Preliminary Tenant Certification:** For **occupied** buildings only, a preliminary certification of tenant incomes must be conducted by the owner to allow the HPD Loan Program Officer responsible for the project to determine the potential number of eligible HOME tenants, the amount of HOME funds, and the number of HOME units in the project. Owners must distribute and collect income certifications for all tenants in the project and submit the completed certifications to HPD. Owners are strongly advised to secure third party verification of tenant incomes at this stage (See sections 2.5 and 2.6 on determining and documenting annual income). Collecting income documentation at an early stage will provide greater certainty in calculating the HOME subsidy at project completion.

**Project Set-Up:** To begin a project, a Project Set-Up Report must be completed by HPD and sent to HUD. The report contains information about the cost of the project, the estimated number of HOME units, and information gathered from preliminary tenant certifications.

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Environmental Clearances:	Any HOME funded project must have an environmental clearance that includes a flood plain review and a Landmarks Preservation Commission review. Your HPD Loan Program Officer will ensure compliance with these requirements.
Lead Paint Notice:	Except for occupants of SRO's, tenants must be notified by the owner of the dangers of lead paint, especially if children under the age of seven reside in the project. If lead paint exists, it must be abated. Your HPD Loan Officer will provide information concerning lead paint that must be distributed to existing tenants. Prior to a construction loan closing, the owner must submit a certification to their HPD Loan Officer stating that they have read and distributed the informational material to their tenants.
Relocation Letters:	In accordance with the Uniform Relocation Assistance and Real Property Acquisitions Act, tenants (residential and commercial) must be notified prior to loan closing that federal funds are being used to rehabilitate their building. They must further be notified that they will not be permanently relocated and must be notified of their rights to receive compensation for any temporary relocation. If tenants have to be temporarily relocated, the moving expenses must be paid and the difference between the higher new rents and old rents must also be paid. Commercial tenants are entitled to the costs of permanent relocation. Your HPD Loan Program Officer will provide material regarding HPD's Tenant Assistance Policy, which includes information concerning relocation. The owner is required to distribute this material to existing tenants and secure tenant signatures that document that they have received this information.
HOME Written Agreement:	Before HOME funds can be used for a project, HPD and the owner must enter into a HOME Written Agreement. The HOME Written Agreement is usually executed at the construction loan closing. The agreement details most of the legal requirements of the HOME Program and remains in effect during the affordability period. The agreement also specifies the number of HOME units by apartment size. (The actual designation of specific units as HOME assisted is made at the time of the completion report). It is extremely important that the owner be familiar with the terms and conditions of the HOME Written Agreement for their project.

## STAGE 2: CONSTRUCTION/PROJECT COMPLETION:

Rehabilitation:	During this stage the rehabilitation of the project is carried out.
HQS Inspection:	Shortly after the completion of the rehabilitation, each HOME assisted unit in the building is inspected by HPD to verify compliance with Federal Housing Quality Standards (see section 5.4).
Rent-up & Final Tenant Income Certification:	Prior to the completion of construction, the owner must begin the final tenant certification process. The process is slightly different for vacant and occupied projects:  <b>Vacant Units/Projects:</b> For these, the owner must select tenants in accordance with an affirmative marketing plan (see section 5.3). Owners must discuss with their Loan Program Officer the required procedures regarding tenant selection. Before leasing a vacant HOME unit, the owner must secure from the tenant a certification of income and household composition (Attachment A). The owner must secure documentation of all income sources indicated on the tenant's certification before the tenant moves into the unit. This will prevent leasing a HOME unit to an ineligible tenant should a discrepancy in the household's reported income be discovered. The owner must submit the tenant certifications along with a certified rent roll (Attachment B) to the HPD Loan Program Officer responsible for their project. The certified rent roll will serve to designate which units are HOME assisted.

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**Occupied Units/Projects:** The owner must secure from each tenant who will reside in a HOME assisted unit a final certification of annual income and household composition (Attachment A), along with verification of all income sources indicated. The owner must submit the tenant certifications along with a certified rent roll (Attachment B) to the HPD Loan Program Officer responsible for their project. The certified rent roll will serve to designate units as HOME assisted. If a tenant has become ineligible since the date of the preliminary certification, documentation supporting the tenant's earlier income eligibility determination must also be provided with the certified rent roll. If no documentation was obtained with the preliminary certification, the tenant is not eligible. As a result, it will be necessary to either designate a new HOME assisted unit that is occupied by an eligible tenant or reduce the number of HOME units in the project. This should be discussed with your Loan Program Officer.

HOME Unit Designation:	At completion, the owner must designate which units in the project will be HOME assisted. The number and size of the units designated must be consistent with the HOME Written Agreement. As previously discussed, the required number of HOME units is based upon the amount of HOME funds allocated to the project. The certified rent roll submitted by the owner will serve to designate which units are HOME assisted. Upon designation, HOME units remain fixed throughout the length of the affordability period.
Project Completion Report:	Within 120 days of the final drawdown of HOME funds for a project, a Project Completion Report must be submitted by HPD to HUD. The tenant income and rent information contained in the report is based on the certified rent roll and tenant certifications provided by the owner. As previously indicated, the owner must ensure that all the required information is submitted to the appropriate HPD Loan Program Officer. A delay in the submission of the certified rent roll and tenant certifications will result in a delay in the commencement (and completion) of the Affordability Period (see section 5.2).

### **STAGE 3: AFFORDABILITY PERIOD/POST COMPLETION MONITORING:**

Affordability Period:	The affordability period for a HOME project can be 5, 10, 15 or 20 years, depending on the type of project (see section 5.2). During this period, the HOME assisted units must meet the affordability requirements regarding rent and income.
Recertification:	The owner must conduct an annual income recertification for each tenant in a HOME assisted unit during the affordability period (see section 2.4).
Inspections:	Periodic inspections of HOME assisted units will be conducted by HPD to ensure compliance with federal Housing Quality Standards (see section 5.4).
Compliance Monitoring:	In order to ensure compliance with the HOME requirements on rent, income and other matters covered by the HOME Written Agreement, the project will be subject to HPD's compliance monitoring.

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## 2.0 TENANT ELIGIBILITY

### 2.1 INCOME TARGETING

The income requirements indicated below must be met by all projects receiving HOME funds. (For HOME projects that combine Low Income Tax Credits the income requirements are slightly different. See Section 6.0: HOME AND TAX CREDITS).

- At least 20% of the families occupying HOME assisted units must have incomes at or below 50% of median income. Note: This applies to projects with 5 or more HOME units.
- At least 90% of the families occupying HOME assisted units must have incomes at or below 60% of median income (includes the above 20%).
- 100% of the families occupying HOME assisted units must have incomes at or below 80% of median income (includes the 20% and 90% noted above).

**EXAMPLE:** for a project with 50 units, of which 40 are HOME assisted:

NUMBER OF UNITS	TENANT INCOME LIMIT	CUMULATIVE %
8	At or below 50% of median income.	20%
28	At or below 60% of median income.	90%
4	At or below 80% of median income*.	100%
<u>10</u>	Unrestricted	N/A
Total: 50		

### HOME INCOME LIMITS

Effective February 9, 2012 the income limits are the following:

Household Size	50% of Median	60% of Median	80% of Median
1 Person	\$29,050	\$34,860	\$46,500
2 Person	\$33,200	\$39,840	\$53,150
3 Person	\$37,350	\$44,820	\$59,800
4 Person	\$41,500	\$49,800	\$66,400
5 Person	\$44,850	\$53,820	\$71,750
6 Person	\$48,150	\$57,780	\$77,050
7 Person	\$51,500	\$61,800	\$82,350
8+ Person	\$54,800	\$65,760	\$87,650

Owners are advised to check HPD's website for updated versions of Income & Rent Limits, and Utility allowances at [http://www.nyc.gov/html/hpd/html/developers/low\\_income.shtml](http://www.nyc.gov/html/hpd/html/developers/low_income.shtml) as they may change throughout the year.

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## INITIAL TENANTS

In order to move into a HOME assisted unit, a household must be income eligible, as defined in the previous section. **An owner cannot lease a HOME assisted unit to an ineligible household.** The selection of initial tenants for unoccupied projects must be done in accordance with an affirmative marketing plan (See Section 5.3). Prior to approving a new tenant, the owner must secure from each household that will occupy a HOME assisted unit a written certification indicating the household's household size and gross annual income (Attachment A). The owner must also verify and document all of the income sources indicated on the household's certification. This will prevent leasing a HOME assisted unit to an ineligible tenant should a discrepancy in the household's reported income be discovered.

## 2.3 VACANCIES

When a vacancy occurs in a HOME assisted unit, the owner must comply with the same selection requirements for initial tenants, i.e. the owner must: (a) conform to an affirmative marketing plan (Section 5.3), (b) maintain the distribution of tenant incomes as described in Section 2.1 above, and (c) select tenants who meet the household income requirements. Prior to approving a tenant or signing a lease, the owner must secure from the household a written certification indicating the household size and total gross annual income (Attachment B). The owner must verify and document all of the income sources indicated on the household's certification. The verification of a household's income should be made before the tenant moves into the unit.

## 2.4 RECERTIFICATION

The owner of a HOME project must develop procedures to ensure that the incomes of all tenants occupying HOME assisted units are recertified annually. Each year, the owner must secure a written certification from each household indicating its size and gross annual income (Attachment A). The owner must then review each certification to determine if the household's income is still within the program limits. While every HOME tenant must recertify their income every year, all owners are not required to obtain third party documentation of income annually. The owner of a project with an affordability period of 10 years or more is only required to secure income documentation every sixth year of the affordability period unless there is evidence that a household's written certification failed to accurately and completely disclose information about the household's size or income. The owner of a project with an affordability period of less than 10 years is required to secure income documentation each year. Regardless of the term of the affordability period, documentation of income is required for all new tenants. **In addition, if a HOME assisted unit is also a Tax Credit unit, the owner must follow the Tax Credit rules regarding annual documentation. Again, the owner must verify and document the income of all new tenants.**

**HUD has released a newly revised regulation to allow owners to determine income eligibility by additional means. In certain situations an owner may use the household's projected annual income using the household's past income. For example, if an owner determined a household's monthly income was \$500, the owner would multiply this amount by 12 to project an annual income of \$6,000. Under the new methodology, however, if the owner is unable to project a household's annual income using current information because the household reports little to no income at the time, or because the household's income fluctuates from month-to-month, the newly revised regulation makes clear the owner can use the household's actual past income to project the household's likely income for the following year. In that case the owner could look at a household's income over the past 12 months to project what income the household is likely to have for the next 12 months.**

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## 2.5 DEFINITION OF ANNUAL INCOME

For the purpose of initial certification and annual recertification, the HOME Program requires owners to determine the anticipated gross annual income of all HOME assisted families. The definition of annual income for the HOME Program is the same as the gross (not adjusted) income for Section 8 Program. Below are the HOME Program INCOME INCLUSIONS and INCOME EXCLUSIONS:

- **INCOME INCLUSIONS:**

The following sources of income **must be included** when determining a household's gross annual income:

- 1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- 2) The net income of the operation of a business or profession;
- 3) Interest, dividends and other net income from real or personal property. Where the household has net household assets in excess of \$5000, annual income includes the greater of the actual income derived from the household assets, or a percentage of the value of such assets based on the current passbook rate as determined by HUD;
- 4) The full amount of periodic payments received from Social Security, SSI, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of receipts, including a lump-sum payment for the delayed start of periodic payment, except SSI and Social Security;
- 5) Payments in lieu of earnings, such as unemployment, workers compensation and severance pay are included in determining annual income;
- 6) The full amount of welfare assistance, including amounts designated for shelter;
- 7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- 8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head or spouse;
- 9) Relocation payments received by the household are included in annual income.

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- **INCOME EXCLUSIONS:**

The following sources of income **should not be included** when determining a household's gross annual income:

- 1) Income from employment of children (including foster children) under the age of 18. Earned income over \$480 of full time students 18 years of age and older is not counted, except where the student is the head of the household or spouse;
- 2) Payments received for the care of foster children and payments received as adoption subsidies;
- 3) Lump-sum additions to household assets, such as inheritances, insurance payments (including payments under health and accident insurance, worker's compensation, SSI and Social Security) capital gains and settlement for personal or property loss;
- 4) Amounts received by the household that are specifically for or in reimbursement of the cost of medical expenses for any household member;
- 5) Income of a live-in aide, as defined in 24 CFR Part 813.102;
- 6) Amounts of educational grants or scholarships;
- 7) The special pay of a household member serving in the Armed Forces who is exposed to hostile fire;
- 8) Temporary, nonrecurring or sporadic income, (including gifts);
- 9) Reparation payments made by foreign governments in connection with the Holocaust;
- 10) Payments made by state agencies to families that have developmentally disabled children or adult family members living at home that are intended to offset the cost of service and equipment needed to keep the developmentally disabled family member at home rather than placing the family member in an institution;
- 11) Value of the allotment provided to the household under the Food Stamp Act;
- 12) Certain Public Subsidies:
  - a. Amounts received under training programs funded by HUD,
  - b. Amounts received by a disabled person that are disregarded for a limited time for the purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (Pass),
  - c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of out of, pocket expenses.

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## 2.6 DOCUMENTATION OF ANNUAL INCOME

Owners are required to document all of the income sources for all new tenants and, when required, during annual recertification (See Section 2.4). The chart below lists the acceptable forms of income documentation ranking them from 1 through 3. The ranking is based on the likely degree of accuracy the documentation provides. Owners should always attempt to secure the documentation listed in ranking 1. **To facilitate this, owners must develop verification of income forms to send to third parties.** Alternate documentation should only be accepted when the documentation listed in ranking 1 cannot be obtained. Documentation of income must be current, not more than 90 days old.

### ACCEPTABILITY RANKING

INCOME TYPE	(1)	(2)	(3)
Wages	Completed verification of earnings form secured directly from the tenant's employer stating the anticipated gross annual earnings of the tenant.	Letter from tenant's employer provided by tenant indicating anticipated gross annual earnings of the tenant	Most recent Federal Tax Return, W2 Form, three current pay stubs
Soc. Sec./SSI, Pension	Completed verification of benefits form secured directly from the Soc. Sec Administration or Pension Administrator indicating the amount of benefits.	Benefit award notification provided by tenant indicating the amount received.	
Welfare	Completed verification of benefits form secured directly from HRA indicating the amount of benefits.	Budget letter provided by tenant indicating amount of benefits.	
Unemployment	Completed verification of benefits form secured directly from the NYS Dept. of Unemployment indicating the amount of benefits.	Benefit award notification provided by the tenant indicating the amount of the award.	
Self Employment	Most recent Federal Tax Return with all schedules.		
Recurring Contributions or Other Income	Notarized statement signed by the person providing assistance indicating dates and amounts.		
Alimony/ Child Support	Court stipulation indicating the amount of support.	Written statement from provider indicating amount of support.	
Current Net Assets and interest income	Form completed by the financial institution indicating both the principal and annual interest.	Copies of financial documents provided by the tenant that indicates both principal and annual interest (i.e. passbook, certificate of deposits, checking account statements etc.)	

**NOTE:** If any adult (18 years of age or older) member of the household is claiming no income a signed Affidavit of No Income must be provided from that household member.

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## 3.0 HOME RENTS

### 3.1 AFFORDABILITY LIMITS

Owners must ensure that the rent for all HOME assisted units does not exceed the affordability limits indicated below. Except where indicated, HOME rents are not based on actual tenant incomes but are standard amounts set by HUD. Note that these rents are ceilings, which may not be exceeded. **The actual initial rents for your project may have been set lower than the maximum home rent.** Owners should consult with their HPD Loan Program Officer regarding the setting of initial rents.

- **LOW HOME RENT:** 20% of the HOME assisted units in a project must have rents that do not exceed: 30% of 50% of median income (less applicable utility allowance), or 30% of the household's actual monthly adjusted income (less applicable utility allowance). If the unit receives a Federal or State project based rental subsidy and the very low income household pays as a contribution toward rent no more than 30% of the household's adjusted income then the maximum rent (i.e., tenant contribution plus project based rental subsidy) is the allowable under Federal or State project-based rental subsidy programs such as Shelter Plus Care and the Section 8 Moderate Rehabilitation Program.
- **HIGH HOME RENTS:** 80% of the HOME assisted units in a project must have rents that do not exceed the HIGH HOME Rent Limit:

### MAXIMUM HOME RENTS BY APARTMENT SIZE

(effective February 9, 2012)

Owners are advised to check HPD's website for updated versions of Income & Rent Limits, and Utility allowances at [http://www.nyc.gov/html/hpd/html/developers/low\\_income.shtml](http://www.nyc.gov/html/hpd/html/developers/low_income.shtml) as they may change throughout the year.

	*LOW HOME RENT	**HIGH HOME RENTS
BEDROOM SIZE	<u>50% Rent Limit</u>	<u>65% Rent Limit</u>
0	\$726	\$925
1	\$778	\$993
2	\$933	\$1,193
3	\$1,079	\$1,369
4	\$1,203	\$1,5085
5	\$1,328	\$1,645
6	\$1,452	\$1,782

\* The units with Low HOME Rents must be occupied by tenants with incomes at or below 50% of the median. (See Section 2.1)

\*\* The units with High HOME Rents must be occupied by tenants with incomes between 60% and 80% of median (See Section 2.1)

Actual contract rents (i.e. the rent that appears on the lease) may not exceed the maximum rent shown above, less the applicable utility allowance(s) for any utilities paid directly by the tenant.

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## UTILITY ALLOWANCE

(as of 10/1/2011)

Owners are advised to check HPD's website for updated versions of Income & Rent Limits, and Utility allowances at [http://www.nyc.gov/html/hpd/html/developers/low\\_income.shtml](http://www.nyc.gov/html/hpd/html/developers/low_income.shtml) as they may change throughout the year.

No. of Bedrooms	Gas	Electricity	TOTAL
	\$	\$	\$
SRO	16	57	73
0	16	57	73
1	17	58	75
2	17	61	78
3	18	77	95
4	20	79	99
5	21	92	113
6+	21	92	113

### 3.2 RENT INCREASES

The maximum HOME rent limits are recalculated on a periodic basis after HUD re-determines the fair market rent and median income levels for New York statistical areas. At lease renewal, rents are governed by the HOME rent limits currently in effect as well as the provisions of rent stabilization, if applicable.

## 4.0 COMPLIANCE MONITORING

### 4.1 GENERAL REQUIREMENTS

During the affordability period, all HOME projects are subject to Compliance Monitoring. The purpose of monitoring is to ensure adherence to the income and rent affordability requirements and the housing quality standards of the HOME program. Specifically, all newly vacated HOME units must be rented to tenants with qualifying incomes, the owner/managing agent must comply with the annual income certification requirements for all tenants in HOME assisted units and the owner/managing agent must comply with the HOME program's various rent restrictions. In addition, as discussed in Section 5.4 below, all HOME units are subject to an annual inspection to ensure compliance with federal Housing Quality Standards (HQS).

### 4.2 ANNUAL COMPLIANCE MONITORING:

Each year, the owner must submit to HPD's Compliance Unit the following information:

- A certified rent roll showing: (a) names and rents for tenants in all units, (b) tenant incomes and household sizes for tenants in HOME assisted units, and (c) dates of income certification for tenants in HOME assisted units,
- An initial income certification for each new tenant who has moved in during the prior calendar year and,
- A certification by the owner that the project is in compliance with all requirements of the HOME Written Agreement (form to be provided by HPD).

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These documents will be reviewed by HPD for compliance. Concurrently, the results of the HQS inspections will be reviewed to determine if there are any uncorrected violations. A written report will be prepared which describes any findings and issues, along with details of any required follow-up. Projects with any pending findings or issues will remain in the active workload until all outstanding problems are resolved.

**\* PLEASE NOTE:** Effective April 2009, HPD will be accepting electronic submissions of the documentation requested above as an alternative to paper. Owners will need to contact the Compliance Unit for more information (see page 22).

In addition to HOME Monitoring described above, which applies to all projects annually, HOME projects will also be subject to a more intensive review on a less frequent basis. Such reviews may either be conducted at the owner's office or at HPD's office. In general the review will involve an in-depth review of income certification and its supporting documents, as well as other procedures used by the owner to ensure compliance with the HOME Written Agreement.

**5.0 GENERAL PROGRAM TOPICS**

**5.1 FIXED HOME UNIT DESIGNATION**

The certified rent roll submitted by the owner at the time of project completion will serve to designate which units are HOME assisted. **HOME units' designation remains fixed during the length of the affordability period.** Accordingly, the owner must ensure that vacated units designated as HOME assisted are rented only to eligible tenants. An eligible HOME assisted tenant subsequently become income ineligible, no action needs to be taken by the owner to designate another HOME assisted unit. The tenant can remain in the unit. However, if the tenant vacates the unit it must be rented to an eligible tenant.

**5.2 AFFORDABILITY PERIOD**

The HOME assisted units in a project must meet the affordability requirements regarding rent and income limits for not less than the applicable period indicated in the following table. The affordability requirements apply without regard to the term of any loan or mortgage, and begin when the Project Completion Report is submitted to HUD by HPD. (Note that the owner's assistance and cooperation is needed in preparing the completion report. If submission of the report is delayed, the affordability period is effectively lengthened.)

TYPE OF PROJECT	MINIMUM PERIOD OF AFFORDABILITY IN YEARS
Rehabilitation or acquisition of existing housing, per unit amount of HOME funds under \$15,000	5
Rehabilitation or acquisition of existing housing, per unit amount of HOME funds from \$15,000 to \$40,000	10
Rehabilitation or acquisition of existing housing, per unit amount of HOME funds over \$40,000 or rehabilitation involving Refinancing	15
New construction or acquisition of newly constructed housing	20

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### 5.3 AFFIRMATIVE MARKETING

Owners of projects with 5 or more HOME units must comply with an Affirmative Marketing Plan approved by HPD when selecting tenants to fill vacant HOME assisted units. In general, an Affirmative Marketing Plan consists of actions to provide information and otherwise attract eligible persons in the housing market to the available housing without regard to race, color, national origin, sex, religion, household status or disability. Your HPD Loan Officer will provide additional material and information on HPD's specific requirements for Marketing and tenant selection. This may include procedures for selecting homeless tenants. In some cases, the owner will be referred directly to the Marketing Unit.

### 5.4 HOUSING QUALITY STANDARDS

Housing Quality Standards are minimum nationwide standards applying to housing projects receiving federal assistance (including HOME). HPD incorporates additional criteria to ensure compliance with local ordinances. HQS inspections involve an examination of both the HOME units and all common areas in the building. In general, federal Housing Quality Standards are intended to ensure that assisted units are decent and safe places to live.

In order to ensure compliance with Housing Quality Standards, an initial inspection of all HOME units is conducted by HPD. Subsequently, all HOME units are subject to periodic inspection. Prior to the inspections, both the tenants and the owner of the HOME project will be notified of the date of the inspection. It is essential that the owner make the HOME units available for inspection on the date scheduled.

If a unit fails inspection, HPD will provide the owner with a detailed list of the items that need to be corrected and a reasonable period of time to make the repairs. Failure by the owner to make the necessary repairs can result in the project being designated as non-compliant.

### 5.5 LEASES

The lease between a tenant and an owner of rental housing assisted with HOME funds must be for a period not less than one year. Owners should include in a HOME lease a clause regarding the tenant's obligation to comply with all of the requirements of the HOME Program including annual income recertification and HQS inspections. Federal regulations **prohibit** the following lease provisions:

**Agreement to be sued:** Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

**Treatment of property:** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State Law;

**Excusing Owner from responsibility:** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

**Waiver of notice:** Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant;

**Waiver of legal proceedings:** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

**Waiver of a jury trial:** Agreement by the tenant to waive any right to a trial by jury;

**Waiver of right to appeal court decision:** Agreement by the tenant to waive the tenant's right to appeal, or otherwise challenge in court, a court decision in connection with the lease, and;

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**Tenant chargeable with cost of legal actions regardless of Outcome:** Agreement by the tenant to pay attorney’s fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant.

## 5.6 RECORD KEEPING

Each participating owner must establish and maintain sufficient records to enable HPD to determine whether the owner is in compliance with the HOME Written Agreement including tenant selection procedures. The owner must maintain individual tenant files for all families in HOME assisted units. The tenant files must contain all income certifications and verifications along with leases and all correspondence.

## 6.0 HOME AND TAX CREDITS

HOME funds may be used in combination with Low Income Housing Tax Credits, but special income targeting requirements must be met to avoid a reduction in the amount of Tax Credit benefits.

The two primary considerations in combining HOME with Tax Credits are:

**Special Income Targeting:** The number of low income apartments or those occupied by households with incomes below 60% of AMI must meet the following four criteria:

- 1) the HOME requirement of 90% of the HOME assisted units, and
- 2) the LIHTC requirement of 25% of **all** the residential units (40% outside of New York City.), and
- 3) the LIHTC requirement of 100% of the LIHTC units

**Rule Conflicts:** In any instance where the rent and income requirements for HOME conflict with those for Tax Credits, the **most restrictive** requirement must be used.

The following **example** uses the 50-unit building referenced in Section 2.1. However, in this case, the 40 HOME assisted units must also qualify for Tax Credit benefits. (Ten units remain without any rent or income restriction.)

<u>HOME without Tax Credits</u>				<u>HOME with Tax Credits</u>			
# Unit	% Units	Max. Income	Max. Rent	# Unit	% Units	Max. Income	Max. Rent
8	20% of HOME	50% of med.	Low HOME	13	25% of all units	50% of med.	30% of 50%
28	70% of HOME	60% of med.	High HOME	27	50% of all units	60% of med.	30% of 60%
4	10% of HOME	80% of med.	High HOME	0	0% of all units	N/A	N/A
<u>10</u>	<u>0%</u> of HOME	Unrestricted	Unrestricted	<u>10</u>	<u>20%</u> of all units	Unrestricted	Unrestricted
50	100%			50	100%		

\* All calculations of the number of required units must be rounded upwards

## 7.0 QUESTIONS AND ANSWERS

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### Question 1

**Q.** What happens if the income of a tenant residing in a HOME assisted unit goes above the income limit?

**A.** The unit occupied by the over-income tenant would continue to qualify as affordable housing despite a temporary non-compliance caused by an increase in the income of the existing tenant. **IF THE TENANT SHOULD MOVE FROM THE UNIT, THE OWNER MUST RENT THE UNIT TO AN ELIGIBLE HOUSEHOLD.** Tenants that no longer qualify as low income must pay as rent the lesser of the amount payable by the tenant under state or local law or 30 percent of the household's adjusted income, except tenants of HOME assisted units that have been allocated Low-income Housing Tax Credits, who must pay rent governed by the Tax Credit rules.

### Question 2

**Q.** What happens if a tenant refuses to cooperate with the annual recertification process?

**A.** First, it is essential that the owner communicate to the tenant all of the requirements of the HOME program at initial occupancy, including the importance of complying with the recertification process. The annual re-certification requirement must also be specified in the tenant's lease as a condition of occupancy. If despite the forgoing, the tenant fails to cooperate, it is important to document the efforts you have made to secure information from the tenant.

### Question 3

**Q.** Can a tenant receive a Section 8 rent subsidy and still reside in a HOME assisted unit?

**A.** Yes. However, the rent (i.e., tenant contribution plus rental subsidy) cannot be more than the HOME rent, and the tenant cannot pay more than 30 percent of the household's adjusted income per Section 8 rules. If the HOME assisted unit receives State or federal project based rental assistance, and the very low-income household pays as a contribution toward rent not more than 30 percent of adjusted income, then the maximum rent is the rent allowable under the federal or State project based rental subsidy program.

### Question 4

**Q.** Are there any restrictions on how tenants are selected for vacant units?

**A.** **ALL TENANTS MUST MEET THE PROGRAM INCOME GUIDELINES** and be selected in accordance with an affirmative marketing plan (Please see Section 5.3).

### Question 5

**Q.** How does rent stabilization affect HOME rents?

**A.** Units that are rent stabilized can qualify for HOME unit designation. However, at no time can rents exceed the HOME rent limits. Rent stabilization increases are applicable provided they do not have the effect of making the unit exceed the HOME rent.

### Question 6

**Q.** Can I charge the maximum HOME rents?

**A.** The HOME rents are rent ceilings and may not be the rent to which an owner is entitled. The initial rents for a given project may have been set lower than the current HOME rents. Owners should consult with their Loan Program Officer concerning questions regarding initial rent setting. After the initial rent setting, the owner may be entitled to an increase in rent based on rent stabilization lease renewal increases provided that the rent does not exceed the current HOME rent.

### Question 7

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**Q.** How do I know if a Project Completion Report was submitted to HUD for my project?

**A.** There are a number of requirements that must be met before a Project Completion Report is submitted to HUD. First, the rehabilitation work for your project must be completed. In addition, you must have submitted to your Loan Program Officer a certified rent roll along with tenant income certifications. Remember, the affordability period for your project does not begin until a Project Completion Report is submitted to HUD. To confirm the submission of the Project Completion Report for your project, contact your Loan Program Officer.

### **Question 8**

**Q.** Who can I call if I have a question?

**A.** If a Project Completion Report has not been submitted to HUD for your project, questions should be directed to the Loan Program Officer responsible for your project. Subsequently, questions can be addressed to Nayana Saraiya in HPD'S Tax Credit and HOME Compliance Unit, (212) 863-7359.

## **8.0 ATTACHMENTS**

**A) Compliance Monitoring Unit – Contact Information**

**B) 2012 HOME Program Rents and Income Limit**

**C) Rent Roll Instructions**

**D) Tenant Income Certification Form**

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# HOME COMPLIANCE MONITORING UNIT

## CONTACT INFORMATION

**INTERNET** IF YOU HAVE QUESTIONS, TO OBTAIN FORMS AND FOR ADDITIONAL INFORMATION VISIT THE "LOW INCOME HOUSING TAX CREDIT AND HOME COMPLIANCE" WEB PAGE ON HPD'S WEBSITE AT:

[http://www.nyc.gov/html/hpd/html/developers/low\\_income.shtml](http://www.nyc.gov/html/hpd/html/developers/low_income.shtml)

**PHONE**

Nayana Saraiya, HOME Compliance Manager	212-863-7359
Alicia Ford, HOME Compliance Analyst	212-863-7420
Jacqueline Volant, HOME Compliance Analyst	212-863-7381
Yvette Yung, HOME Compliance Analyst	212-863-7412
Michelle Tillman, HOME Compliance Analyst	212-863-6965
Arabia Brown, HQS Compliance Coordinator	212-863-7404
Jacqueline Crowder, HQS Compliance Analyst	212-863-7396

**FAX** Tax Credit and HOME Compliance Unit 212-863-7413

**E-MAIL**

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Jacqueline Volant, HOME Compliance Analyst	<a href="mailto:VOLANTJ@hpd.nyc.gov">VOLANTJ@hpd.nyc.gov</a>
Yvette Yung, HOME Compliance Analyst	<a href="mailto:YINGY@hpd.nyc.gov">YINGY@hpd.nyc.gov</a>
Michelle Tillman, HOME Compliance Analyst	<a href="mailto:TILLMANM@hpd.nyc.gov">TILLMANM@hpd.nyc.gov</a>
Arabia Brown, HQS Compliance Coordinator	<a href="mailto:BROWNAR@hpd.nyc.gov">BROWNAR@hpd.nyc.gov</a>
Jacqueline Crowder, HQS Compliance Analyst	<a href="mailto:CROWDJ@hpd.nyc.gov">CROWDJ@hpd.nyc.gov</a>

**MAIL**

HOME Program  
 Tax Credit and HOME Compliance unit  
 Dept. of Housing Preservation and Development  
 100 Gold Street, RM 7Z- 2  
 New York, NY 10038

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## 2012 MAXIMUM HOME PROGRAM RENTS (Effective 2/9/2012)

\*\* Utility Allowances revised eff 10/1/2011

### LOW HOME RENTS

#### VERY LOW INCOME (VLI) UNITS

BEDROOM SIZE	RENT INCLUDES GAS AND ELEC	TENANT PAYS GAS AND ELEC.	TENANT PAYS GAS	TENANT PAYS ELEC.
0	\$726	\$653	\$710	\$669
1	\$778	\$703	\$761	\$720
2	\$933	\$855	\$916	\$872
3	\$1,079	\$984	\$1,061	\$1,002
4	\$1,203	\$1,104	\$1,183	\$1,124
5	\$1,328	\$1,215	\$1,307	\$1,236
6	\$1,452	\$1,339	\$1,431	\$1,360

Based on 30% of 50% of median income.

### HIGH HOME RENTS

#### LOW INCOME (LI) UNITS

BEDROOM SIZE	RENT INCLUDES GAS AND ELEC	TENANT PAYS GAS AND ELEC.	TENANT PAYS GAS	TENANT PAYS ELEC.
0	\$925	\$852	\$909	\$868
1	\$993	\$918	\$976	\$935
2	\$1,193	\$1,115	\$1,176	\$1,132
3	\$1,369	\$1,274	\$1,351	\$1,292
4	\$1,508	\$1,409	\$1,488	\$1,429
5	\$1,645	\$1,532	\$1,624	\$1,553
6	\$1,782	\$1,669	\$1,761	\$1,690

Based on 30% of 65% of median income adjusted by HUD.

## 2012 PROGRAM INCOME LIMITS (Effective 2/9/2012)

### HOUSEHOLD SIZE

% of MEDIAN INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8+ Person
50% Very Low Income (VLI)	\$29,050	\$33,200	\$37,350	\$41,500	\$44,850	\$48,150	\$51,500	\$54,800
60% Low Income (LI)	\$34,860	\$39,840	\$44,820	\$49,800	\$53,820	\$57,780	\$61,800	\$65,760
80% Low Income (LI)	\$46,500	\$53,150	\$59,800	\$66,400	\$71,750	\$77,050	\$82,350	\$87,650

# HOME CERTIFIED RENT ROLL INSTRUCTIONS

**IMPORTANT!!!!** All information contained in the rent roll must be as of December 2011.

Project specific rent rolls will be provided to you in January of each year

## Project Information

- 1. Property Address:** This information has been provided.
- 2. Owner Name:** This information has been provided. If the Owner's name has changed, please provide.
- 3. Total HOME Units:** This information has been provided.
- 4. Utilities Paid by the tenant:** Indicate the utilities the tenant pays directly by checking the appropriate box.

### Apartment Information (Columns A-D)

**A. Apt #:** The HOME units have been provided. For a list of HOME units refer to the **Project Completion Report**. **HOME unit designations are fixed and will remain fixed throughout the affordability period.**

**B. Low Income/ Very Low Income:** Projects with 4 or lesser units are not required to have VLI units. For projects with 5 or more units, each HOME unit must be identified as either Low Income (LI) or Very Low Income (VLI). *Example:* A project with 20 HOME units would be required to have 4 VLI units (20 HOME units x 20% = 4).

To qualify as a VLI unit, the income of the tenant must be at or below 50% of median income for their family size and the rent cannot exceed the Low HOME Rent Limit. Refer to the **2012 HOME Rent and Income Limit Chart**.

**Do not indicate more than 20% of your HOME units as VLI.**

**C. Tenant Name:** Indicate the full name of the tenant occupying each HOME Unit. If unit was vacant during 12/11, show as "Vacant".

**D. Number of Bedrooms:** Indicate the number of bedrooms in each HOME Unit.

## Rent Information (Columns E & F)

**E. Total Monthly Rent:** For each HOME unit, indicate the full contract rent as shown on the tenant's lease. The contract rent may not exceed the maximum HOME rent. Refer to the 2012 Rent and Income Limit Chart. *Example:* Apt. 2A is a 2-bedroom VLI unit and tenant pays gas. The maximum rent for this unit is \$876.

**F. Tenant Portion of Rent:** If a HOME tenant receives a rent subsidy, indicate the tenant's portion of the rent.

## Household Information (Columns G-J)

**G. Number of persons in Household:** Indicate the number of persons occupying each HOME unit. This should be based on the tenant's 2011 re-certification. For new tenants that began occupancy during 2011, this should be based on their initial certification.

**H. Gross Household Income (\$):** Indicate the Gross Household Income of each family occupying a HOME unit. This should be based on the tenant's 2011 re-certification. For new tenants that began occupancy during 2011, this should be based on their initial certification.

**I. Date of Income Re-certification:** Indicate the date the HOME tenant signed the 2011 income re-certification. If the tenant's 2011 re-certification was conducted in 2010 or 2012, please make a note on the rent roll that the re-certification applies to the tenant's 2011 income.

For new tenants that moved in a HOME unit during 2011, indicate the date the tenant signed the initial income certification and **submit a copy of their initial income certification along with the owner certification and certified rent roll.** Do not submit copies of the annual re-certifications.

**J. Move-in Date:** Indicate the move-in date. For new tenants the move-in date is required and a copy of their initial income certification must be submitted. If the move-in date is not available for tenants who moved in prior to 2011, write N/A.

## Signatory/ Certification

**Signatory/Certification:** The owner or an authorized representative must sign and certify that the information contained in the rent roll has been verified and the information is true and accurate.

