

FEDERAL HOUSING FINANCE BOARD

Non-enforcement of AHP Recapture Requirements Under Special
Circumstances Affecting the 20 Percent Maximum Subsidy Rule

WHEREAS, section 10(j) of the Federal Home Loan Bank Act of 1932 ("Act") (12 U.S.C. 1430(j)), requires the Federal Housing Finance Board ("Finance Board") to issue a regulation governing the maximum subsidy provided under the Affordable Housing Program ("AHP");

WHEREAS, section 10(j)(2) of the Act (12 U.S.C. 1430(j)(2)) permits Federal Home Loan Bank ("Bank") members to use subsidized advances received from Banks to finance homeownership by families with incomes at or below 80 percent of the median income for the area, or to finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households ("income eligible families and households");

WHEREAS, the Finance Board adopted a regulation effective March 1, 1991, codified at 12 C.F.R. Part 960, requiring, inter alia, that income eligible families and households pay at least 20 percent of their gross income for housing expenses excluding utilities (the "maximum subsidy rule"), see 12 C.F.R. § 960.9, and as provided by 12 C.F.R. § 960.8, requiring AHP funds to be recovered if the AHP subsidy is used improperly;

WHEREAS, the Finance Board has determined that the current maximum subsidy rule has made it difficult to finance housing projects for income eligible families and households because it prevents the coordination of the AHP with other federal and state housing programs, it fails to recognize utility costs as part of a family's or household's housing expense, and it excludes certain income eligible families and households from participating in the AHP;

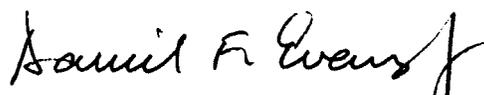
WHEREAS, in order to rectify the problems identified generally in the immediately preceding paragraph, the Finance Board on March 24, 1993, amended the current maximum subsidy rule in an interim final rulemaking;

WHEREAS, enforcement of the requirement to recover improperly used AHP subsidy could harm a fundamental purpose of the AHP which is to provide affordable housing for income eligible families and households, and could result in the displacement of such families and households, causing substantial hardship; and

WHEREAS, because the current maximum subsidy rule has been amended and for the reasons discussed in the immediately preceding paragraph, the Finance Board believes that projects that are not in compliance solely with the current maximum subsidy rule should not be subject to the recapture provisions of 12 C.F.R. § 960.8;

NOW, THEREFORE, BE IT RESOLVED, that the Finance Board will not require the enforcement of the recapture provisions of 12 C.F.R. § 960.8 for any AHP project approved on or prior to the date of this resolution that is not in compliance solely with the current maximum subsidy rule, provided that income eligible families and households residing in the project pay the proportion of their income for housing expenses required by the interim final rule approved by the Finance Board on March 24, 1993.

By the Federal Housing Finance Board

A handwritten signature in black ink, appearing to read "Daniel F. Evans, Jr.", with a stylized flourish at the end.

Daniel F. Evans, Jr., **Chairman**