

JAMES M. HOULIHAN
Assessor of Cook County

CLASS S
ELIGIBILITY BULLETIN

I. General Provisions and Incentive Benefits

The goal of Class S is to preserve project-based Section 8 multifamily rental housing so as to retain the stock of decent, safe and affordable housing for low- and moderate-income households in Cook County.

Qualified real estate under the incentive provided by Class S is Class 3 property which is subject to a project-based Section 8 contract that has been renewed under the United States Housing and Urban Development (HUD) “Mark Up To Market” (MUTM) option. The Section 8 units must be retained during the five-year term of the renewed MUTM contract. The portion of the building eligible for the incentive shall be in such proportion as the number of Section 8 units bears to the total number of units. This proportion shall be applied only to property used for residential purposes, and not to portions of the property, if any, used for commercial purposes. The portion of the units that are Section 8 will be assessed at the 16% level. Since multifamily residential real estate is ordinarily assessed at 33% of its market value, the incentive benefit constitutes a 52% reduction in the level of assessment for the portion of Section 8 units and results in a significant tax saving.

After the Class S designation expires, the assessment level will revert to the Class 3 assessment level of 33% of market value. Qualifying real estate will be eligible to renew the incentive when the applicant receives approval from HUD for a contract renewal under the Mark Up To Market Option. The applicant shall file an application for the incentive with the Assessor’s Office along with a copy of HUD’s letter approving the contract renewal and a copy of the executed renewal contract.

Class S is administered by the Assessor's Development Incentives Department. Please direct all communications to: Office of the Cook County Assessor, Development Incentives Department, 118 North Clark Street, 3rd Floor, Chicago, Illinois 60602, (312) 603-5331

II. Definitions

The following definitions, as set forth in Section 1 of the Cook County Real Property Assessment Classification Ordinance, pertain to the Class S incentive provision:

HUD: “The United States Department of Housing and Urban Development (HUD).”

Section 8 Contract: “A contract for project-based assistance for a multifamily housing project under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).”

Fair Market Rent: “The fair market rental established under Section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f).”

Expiring Contract: “A project based assistance contract under Section 8 of the United States

Housing Act of 1937 (42 U.S.C. 1437f) which, under the terms of the contract, will expire.”

Mark Up To Market Option: “A contract renewal option, pursuant to Section 524 (a)(4)(A) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [MAHRA] (Title V or Public Law No. 105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999, 113 Stat. 1109ff), for eligible properties located in strong markets, where a Rent Comparability Study conducted by HUD has determined that comparable market rents are above 100% of the HUD Fair Market Rent, and for which HUD is authorized to approve renewal terms providing rents higher than the HUD FMR. The Mark Up To Market option includes increasing rents from the HUD FMR to the level of an existing use restriction on a property.”

Mark Up To Market Option Under HUD’s Discretionary Authority: “A contract renewal option, pursuant to Section 524 (a)(4)(C) or (D) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [MAHRA] (Title V of Public Law No. 105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999, 113 stat. 1109ff), providing rents higher than the HUD FMR, based on the exercise of HUD’s discretionary authority, for properties which do not necessarily meet the usual eligibility criteria, but do meet a special set of statutory criteria, in that a vulnerable population is affected; there is a low vacancy rate in the area, which would make tenant based assistance difficult to use, or a lack of comparable housing; or the project is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.”

Section 8 Contract Renewal Under the Mark Up To Market Option: “Renewal of a Section 8 contract for an additional 5 years under the Mark Up to Market option, after a determination of eligibility by HUD pursuant to its authority under Section 524(a)(4)(A), (C), or (D) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [MAHRA] (Title V of Public Law No. 105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999, 113 Stat. 1109ff).”

III. Eligibility Requirements

Real estate is eligible for Class S status under the following conditions:

- A. Mark Up To Market Option (MUTM). Property qualifies if its Section 8 contract has been renewed under the Mark Up To Market option. HUD has approved renewal of the MUTM option after finding that:
 - 1) the property has received a physical inspection score of at least 60, in an inspection by HUD’s Real Estate Assessment Center;
 - 2) the property does not have a low-and-moderate-income use restriction that cannot be eliminated by unilateral action by the

owner; and

- 3) a Rent Comparability Study conducted by HUD has demonstrated that comparable market rents are above 100% of the HUD Fair Market Rent (FMR).

B. Mark Up To Market Option Under HUD's Discretionary Authority. Property qualifies under the discretionary authority MUTM option if:

- 1) a vulnerable population is affected, or
- 2) there is a low vacancy rate in the area, which would make tenant based assistance difficult to use, or a lack of comparable housing, or
- 3) the project is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

C. Number of Section 8 Units. At least 20% of the living units must be Section 8 units for qualifying low- and moderate-income persons.

D. Duration. The owner(s) must agree to retain at least the existing number of Section 8 units during the five year term of the renewed MUTM contract.

E. Affidavit. For the duration of the Class S, the applicant must file annually with the Assessor, on or before a date determined by the Assessor, a sworn statement verifying continuous compliance with the Class S provisions.

F. Notification. Applicant must agree to notify the Assessor's Office if the Section 8 contract is terminated by HUD prior to its expiration date. Applicant shall provide to the Assessor's Office a copy of any Notice of Default or Notice of Abatement received from HUD.

G. Sale or Transfer of Property. In the event the property is sold or transferred during the period of Class S designation, the purchaser or transferee must comply with all of the Class S requirements. The consequences of failure to comply with the Class S requirements after a sale or transfer of property are discussed in Section VI, "Termination".

H. Anti-discrimination Clause. No owner of a building with the Class S designation shall discriminate against any tenant or potential tenant on the basis of race, color, sex, age, disability, marital status, religion, national origin or ancestry, or on any other basis prohibited under federal, state, or local law.

IV. Application Procedure

1. Filing Class S Eligibility Application.

The "Eligibility Application" shall require certain information from the applicant including, but not limited to, the following:

- a) When the applicant applies to HUD for a contract renewal under the Mark Up To Market Option, the applicant shall, at the same time, notify the Assessor's Office of possible contract renewal on a form provided by the Assessor's office.
- b) Upon receiving approval of the contract renewal from HUD, the applicant shall file an application for the incentive with the Assessor's Office on a form provided by that office.
- c) The Class S application shall be supported by a copy of HUD's letter approving the contract renewal and a copy of the executed renewal contract.

Any property which, as of the effective date of the adoption of the Class S incentive program, has an existing Section 8 contract with a Mark Up To Market option may apply for Class S classification for the portion of the 2001 assessment year encompassed within the contract term. The Class S classification will remain in effect for the duration of the MUTM contract. Class S may be renewed each time the MUTM contract is renewed.

2. Acknowledgment of Receipt of Application. The Assessor will acknowledge in writing the receipt of all applications.

3. Filing of the Appeal Form to Change the Property Classification. The Assessor's acknowledgement of the application will inform the applicant of the time for filing an appeal. If the appeal dates are not yet available, the acknowledgement will suggest a time to contact the Incentives Department at (312) 603-5331 for an appeal date. To effect a change in the subject property's classification from Class 3 to Class S, a Real Estate Valuation Appeal Form must be filed with the Assessor for the assessment year in which the Mark Up To Market contract begins. This "appeal" should request "change Class 3 to Class S".

To challenge the market value placed on the property, an additional valuation appeal may be included, supported by the required additional documentation (see General Rules for Assessment **Valuation** Appeals).

4. Review and Determination. Upon the receipt of a Real Estate Valuation Appeal Form requesting a change from Class 3 to Class S, the Assessor will review the Eligibility Application, along with the documentation submitted in support of such Application, and will make a final determination as to whether the subject property complies with the requirements contained in this Bulletin and in the Real Property Assessment Classification Ordinance, as amended.

If the subject property meets all the foregoing requirements, the Assessor shall reclassify the property as Class S real estate. This reclassification to

Class S shall take effect in the assessment year in which the Mark Up To Mark contract is effective.

V. Annual Affidavit

The owner must file an annual affidavit provided by the Assessor. The affidavit, attesting to continuous compliance with Class S requirements, must be filed before the annual deadline as set by the Assessor.

The affidavit must certify the following:

- A. The subject property is in substantial compliance with applicable building, safety and health codes. Attached are copies of any outstanding building, safety or health code violations.
- B. Attached is documentation verifying a HUD Mark Up To Market (MUTM) contract for Section 8 housing assistance for those units that are project-based Section 8 units.
- C. The number of Section 8 units, listed in the MUTM contract, has been maintained or exceeded.
- D. Rents for at least 20% of the property are HUD MUTM Section 8 units.

VI. Renewal of Class S Status

A. Renewal Requirements:

- 1. The incentive may be renewed if the Section 8 contract is renewed under the MUTM option. Upon filing an application with HUD (no less than 120 days prior to termination of the contract) for renewal of the Section 8 contract under the MUTM option, the applicant shall provide notice to the Assessor's Office. Upon receipt of notice from the applicant, the Assessor's Office will send an Application Renewal Form which the applicant must return to the Assessor's Office within forty-five days for renewal of the Class S incentive.
- 2. The Assessor will notify owners with Class S incentives of the scheduled expiration of the Class S classification six months prior to the expiration date.
- 3. In addition, the applicant shall provide notice to the Assessor's Office of HUD's approval of the contract renewal or notification of other HUD action upon receipt.

B. Acknowledgment of Receipt of Application for Renewal. The Assessor will acknowledge in writing the receipt of applications for renewal.

C. Review and Determination. The Assessor will review the application for renewal with its supporting documents. If the subject property meets all Class S

requirements, the Assessor shall renew the Class S status of the property, subject to the filing of an appeal.

VII. Termination by the Assessor

The Class S designation may be terminated immediately by the Assessor under any of the following circumstances:

- failure to comply with the Class S requirement that at least 20% of living units be designated as Section 8 units for qualifying low-and moderate income persons;
- failure to retain Section 8 units for at least 5 years after the renewal of the expired Section 8 contract;
- failure to file annually with the Assessor, on or before a date determined by the Assessor, a sworn statement verifying continuous compliance with Class S;
- failure to notify the Assessor's Office if the Section 8 contract is terminated prior to its expiration date.

Furthermore, in the event that the original applicant, or any successor in interest in the subject property, fails to comply with the requirements under the Class S classification, the Class S classification shall be deemed null and void from its inception as to the subject property. In such an instance, the original applicant shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property been assessed at the Class 3 assessment level and the amount of taxes collected under the Class S classification. Failure of the original applicant to make such a reimbursement shall not constitute a lien upon the subject property but shall constitute an *in personam* liability which may be enforced against the original applicant.

VIII. Termination by HUD

The Class S designation will be terminated if HUD terminates the Mark Up To Market Section 8 contract.

5/9/02