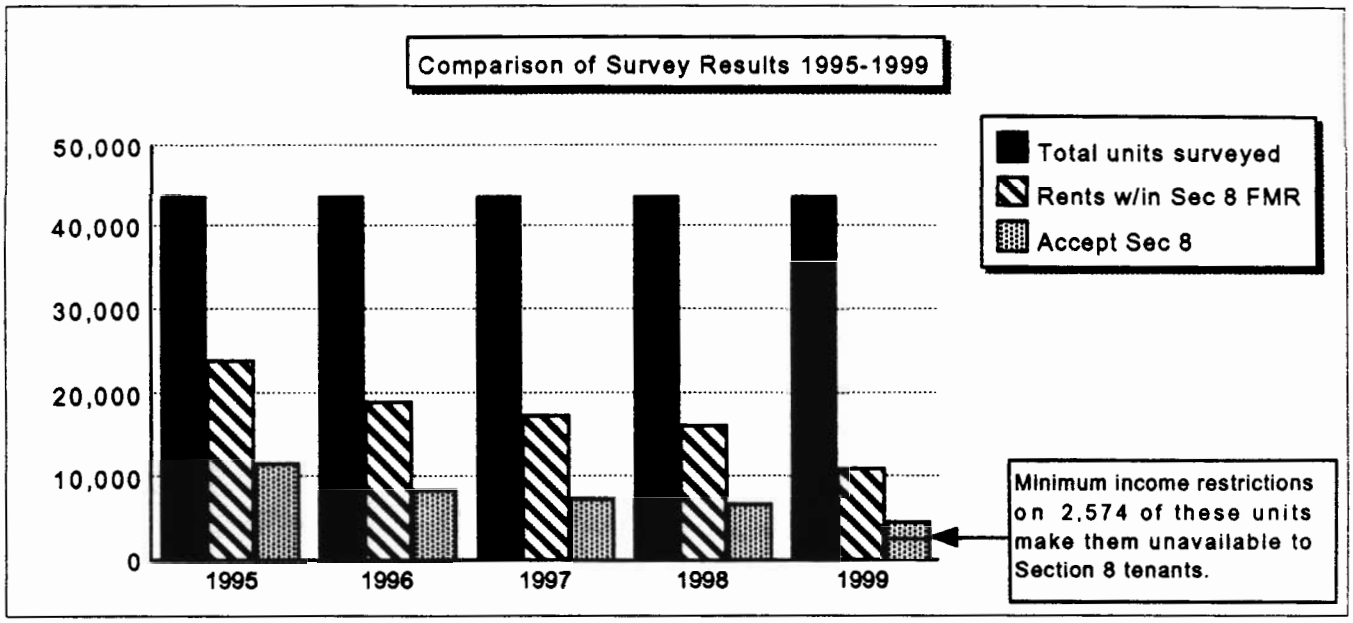
DIMINISHED CHOICES 5

THE EVER SHRINKING MARKET FOR SECTION 8 IN SUBURBAN HENNEPIN COUNTY MINNESOTA



INSIDE THIS REPORT:

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This report was prepared by volunteers and staff of HOME Line. Beth Kodluboy, HOME Line's lead tenant organizer coordinated data collection and processing with assistance from Mary Gleason, tenant organizer. The calls were made by Mary Gleason and community volunteers Betty Ann Murphey, Karla Weigold, Chris Learned, Mike Davey, Bonny Skolnik, and Steve Bergman. Charlie Warner, HOME Line's executive director, wrote the text.

About HOME Line

HOME Line is a Minnesota non-profit which originated as a program of Community Action for Suburban Hennepin (CASH), the community action program operating in suburban Hennepin County outside the city limits of Minneapolis. In July 1999, HOME Line's tenant services were spun off from CASH. HOME Line's programs for tenants include a hotline that receives approximately 5,000 calls from tenants each year. The hotline staff also conduct a presentation program for local high school seniors to educate them on becoming knowledgeable and responsible renters. HOME Line also works to organize tenants to deal collectively with common problems and has focused much of its organizing work in recent years on tenants of HUD-subsidized complexes at risk of conversion to market rents. HOME Line also participates in housing policy advocacy at the state and national levels.

SUMMARY

In the summer of 1999, HOME Line conducted its fifth annual survey of suburban Hennepin County rental property owners to determine the level of their participation in the Section 8 rental subsidy program. This survey continues to be conducted in response to numerous calls from tenants to HOME Line, complaining that they were unable to find housing where they could use their Section 8 subsidy.

As in previous years, the results of the 1999 survey are not promising for low income renters. Even fewer units than before have rents that qualify for the Section 8 program and have management willing to accept renters with a Section 8 subsidy. The decline in the number of units in both categories ("qualifying" and "accepting") from year to year is steady and significant.

This year's results show:

•351 apartment complexes with a total of 43,424 rental units were surveyed. This represents approximately two-thirds of the rental housing in suburban Hennepin County.

•Less than 10% of the surveyed units met the rent requirements of the Section 8 program and accepted Section 8 renters. (compared to 15% in 1998, 17% in 1997, 20% in 1996 and 27% in 1995)

•32,381 of the survey units, 75%, have rents higher than the qualifying Fair Market Rent (FMR) set by HUD, up from 63% in 1998.

•Of the 11,043 units that do have qualifying rents, only 4,451 accept Section 8. This is 2,074 fewer qualifying and accepting units than in our 1998 survey of the same apartment complexes.

•584 of the qualifying and accepting units only accept tenants with Section 8 vouchers (vs. certificates), even though about two thirds of Section 8 subsidies at the time of this survey were certificates.

•Of the 4,451 qualifying and accepting units, 2,574, or 58%, have some sort of minimum monthly income requirements to be eligible for occupancy. Most of these units (2,358) are in properties whose income requirements effectively exclude almost all Section 8 renters. **This leaves only 2,093 units--less than 5% of those surveyed--where Section 8 tenants can use their certificates or vouchers without being excluded by minimum income restrictions and without paying more than 30% of their income.**

This year, for the first time, we correlated our survey results with a listing of properties certified for the state's new 4d tax classification program. The 4d program offers property tax relief to owners who agree to limit rents and to accept Section 8 tenants for a limited number of units in the complex. We discovered apparent non-compliance with 4d requirements in a significant number of complexes. See the box "Compliance with the Section 8 requirements of Minnesota's 4d property tax classification" later in this report for details.
Our results bring into question our national housing policy that relies on the private market to provide low-income people with affordable housing. Even with changes to the program that make it easier for landlords to participate, the survey shows a continuing shrinkage of options for Section 8 renters. This survey has shown, once again, that the prospects for area Section 8 certificate or voucher holders are less than encouraging, and are getting worse.

BACKGROUND

Families need safe, decent, and affordable housing in order to survive and thrive. The federal government has long recognized this truth. The Section 8 program has been the mainstay of government-assisted housing in the United States since 1974, when it was authorized by Congress. The Section 8 program provides subsidies to private landlords on behalf of low and moderate income families and individuals. One of the basic tenets of the Section 8 program is that it is supposed to offer increased locational choice for participating households. Our five years of research indicates otherwise: options for Section 8 homeseekers have been steadily decreasing through the years of our surveys. In 1995 when we began documenting Section 8 acceptance by landlords, 27% of the units in our study were available and affordable (at 30 % of income) to renters on Section 8; in 1999, that figure is down to a mere 5%.

During the past ten years, the Administration and Congress have evolved housing policies based on the assumption that "tenant based" Section 8 certificates and vouchers are the way to deliver housing assistance to lower income households. The argument goes that renters with a Section 8 certificate or voucher will have wide freedom of choice and can avoid the "concentrations of poverty" associated with the large public housing projects of yesteryear. In a perfect world, these argument would probably hold up. But in the reality of the Twin Cities rental housing market, this survey shows that argument to be flawed.

Our metropolitan area is experiencing the most severe rental housing crisis in decades. According to the Minneapolis StarTribune, the current metro-wide vacancy rate for apartments is 1.6%. For housing at the low end of the market, most experts agree that vacancies are virtually nil. Housing economists describe a "healthy" market as one with 5% vacancies; at the 5% rate, owners can get a reasonable return on their investments and consumers can get reasonable choices of places to live. The tight Twin Cities market allows owners to raise rents sharply and still have people waiting in line for units. It offers consumers, other than those at the high end of the market, little, if any, freedom of choice.

The Metropolitan Council's Housing and Redevelopment Authority (HRA) administers the largest number of Section 8 tenant-based subsidies in the Metro area. They have reported that most tenants issued certificates or vouchers have had great difficulty finding a place to use them. In the Twin Cities' tight housing market, the HRA has learned that it must issue four vouchers for every one that eventually gets leased and five certificates for every one that gets leased.

An alarming trend has begun in Minnesota, and throughout the country, as owners of rental complexes subsidized with project-based Section 8 subsidies have given notice to tenants that they no longer intend to participate in the program. Rent increases of up to $200 have been announced by the owners.

These early examples of owner terminations are only the first of what housing advocates expect to be a deluge during the next few years. Minnesota was a leader in the use of the Section 236 and Section 8 development programs. Many assisted complexes were built in now-desirable locations where the lure of vastly increased profits can be expected to induce owners to convert to market rate housing.

The subsidized projects located in suburbs often represent the only affordable housing in those areas where job growth is occurring. They are often the only suburban housing with diverse occupancy. Terminating subsidies has the collateral effect of reducing fair housing choices

significantly in an already highly race-segregated housing market. With our tight rental market and the ever-diminishing number of places accepting Section 8 renters, the "vouchering out" of these subsidized tenants represents a major crisis.

The FY2000 HUD Appropriations Act, recently signed into law by the president, includes provisions intended to keep owners in the Section 8 program. These allow for higher rents and permit increased profits to be taken from operations than had been allowed in the past. It is hoped that these incentives will persuade at least some owners from converting to market rents.

On October 1 of this year, HUD published final rules on the "Housing Choice Voucher" program which combines the Section 8 certificate and voucher programs into one. [See Appendix I, at the end of this report, for more detail.] Many features of the new program are intended to overcome owner objections to the Section 8 program as it has been operated. Now, landlords are allowed to use leases with less than a one-year term; public housing agencies administering the vouchers are obliged to complete unit inspections and make payments to landlords in a timely fashion; provisions disliked by owners ("endless lease" and "take-one-take-all") are permanently repealed.

In the new program, a family may not pay more than 40% of income for rent when the family first receives one of these new vouchers; and this maximum initial rent limit applies each time a participant moves to a new unit. For low income tenants, this provision will mean exclusion from many Twin Cities rental units, especially with the failure of HUD's FMRs to keep pace with the market (see below). Furthermore, setting a 40%-of-income limit carries an implication that this cost burden is acceptable. Some advocates wonder how long it will be before 40% becomes the new definition of "affordable housing."

WHAT THE 1999 SURVEY SHOWS

Declining Acceptance

Of the 43,424 units surveyed through the five years of this project, more than 32,381 units (75%) are eliminated this year because the rents are higher than the Fair Market Rent (FMR), the qualifying rent for the Section 8 program. In 1995, the first year of this survey, only 42% were disqualified because of too-high rents. Of the 11,043 units that qualify in 1999 for Section 8, only 4,451 accept Section 8. This is considerably less than half (40%) of the rent-eligible units and only about one-tenth (10.25%) of all units surveyed.

These results show a drop of 7,198 "qualifying and accepting" units since 1995, when there were 11,649 qualifying and accepting units. The decrease in qualifying and accepting units is due both to units no longer qualifying for the Section 8 rents and fewer owners willing to rent to Section 8 applicants.

Fair Market Rents (FMRs) not Realistic

In 1995, the first year of our survey, well over half (58%) of the units surveyed had rents within the Section 8 FMR's in effect at the time. This percentage has steadily decreased in each subsequent survey. In 1996, it fell to 45%; in 1997, it was down to 40%; last year (1998) the figure declined to 37%. This year only 25% of the units surveyed had rents within the FMRs.

HUD's schedule of FMRs for the metro area, effective October 1, increased only 2.7% above the previous levels (those in effect when this survey was conducted). As reported in the Minneapolis StarTribune, using data provided by Apartment Search Profiles, rents in the metro area are increasing at a 6.7% annual rate. This disparity between HUD's methodology for setting FMRs and the reality of the marketplace contributes to the loss of effectiveness of Section 8 vouchers.

Vouchers Only

In the 1999 survey, six complexes had rents within the FMR but reported that they only accept tenants with vouchers. There are a total of 584 units in these developments; they represent 13% of all Section 8-accepting units. Most (about two-thirds in the Twin Cities and three-fourths overall) of all tenant-based subsidies are certificates, so these voucher-only units are not available to the majority of Section 8 tenants, further restricting their choices of places to live.

[HUD has merged the Section 8 certificate and voucher programs into a single "Housing Choice Voucher Program," described later in this report. Our 1999 survey was conducted prior to the October 1 effective date of the new program.]

Income Requirements

More than half (53%) of the units with rents at or below the FMR that report willingness to accept Section 8 have minimum income policies for applicants that have the practical effect of excluding low income tenants. Of the 4,451 below-FMR units in 1999 that claim to accept Section 8 tenants, 2,574 have minimum income requirements.

The policies vary among complexes, but a majority have income policies that exclude most or all of Section 8 renters. To illustrate, of the 2,574 units with income requirements, 2,358 have indicated that applicants' incomes must be at least three times the monthly rent, and have indicated that the Section 8 subsidy will not be considered income. This leaves only 2,093 units that have rents below the FMR and accept Section 8 subsidies without restrictive minimum income requirements--just 4.8% of the 43,424 surveyed units.

The Wait for Section 8

There are a number of reasons that only one in five qualifying households receive subsidies. One of them, certainly, is the status of the Section 8 waiting lists maintained by area Housing and Redevelopment Authorities (HRAs). The chart below lists the HRAs providing the majority of Section 8 certificates and vouchers used in suburban Hennepin County.

HRA	# Certificates & Vouchers	Estimated wait	How often list is opened
Bloomington	450	1 to 5 years	2 to 3 years, 565 on list now
Plymouth	220	2 to 3 years	August 97 last opened
Richfield	400	1/2 to 2 years	2 years. Will open in November
St. Louis Park	208	2 to 5 years	2 years
Metro Council	5,000	2 to 3 years	once a month

Compliance with the Section 8 requirements of Minnesota's 4d property tax classification

In 1997, the Minnesota Legislature amended the state's property tax laws by adding a new classification, known as 4d, that significantly lowers property taxes on qualifying rental units. Once certified for taxation under 4d, the property will be taxed at a class rate of 1% of market value for land and buildings. This is the lowest rate available in Minnesota, the same rate applied to lower valued owner occupied homes.

To qualify, an owner must:
- rent to households with incomes at or below 60% of the local median income adjusted for family size;
- charge an annual rent equal to or less than 30% of the income limit adjusted for family size;
- assure the property passes an inspection by a qualified inspector at least every three years;
- make available for Section 8 certificate/voucher holders at least 20% (in the Metro area) or 10% (in non-Metro areas) of the units in each project, and;
- sign a five-year rent restriction agreement and record it with the county.

After calling the 351 apartment complexes for this year's survey, we compared them to the list of 4d qualified properties we obtained from the Minnesota Housing Finance Agency, the government body charged with administering the 4d program. This comparison indicated that a significant number of those responding "no" to accepting Section 8 tenants were on the 4d list. A few complexes reported rents in excess of the limits set for the 4d program.

- Of the 351 complexes surveyed, 52 were enrolled in the 4d program;
- Of these 52, 15 responded that they did not accept Section 8 applicants;
- Of the 52 enrolled in 4d, 4 reported rents in excess of the 4d limit;
- Twenty three (23) of the 52 properties enrolled in 4d had minimum income restrictions that exclude Section 8 applicants.

It should be noted that the rent limit set for the 4d program is calculated as being affordable (not costing more than 30% of income) to a household earning 60% of the area median income. In the Twin Cities metro area, 60% of the median income for a 3-person household is $32,800. The 4d qualifying rent for a 2-bedroom apartment for this household is $820. At the time our survey was conducted, the HUD-approved Fair Market Rent for a 2-bedroom unit was $666. Even in those local markets with high rents where HUD has approved "exception rents" (up to 20% above the FMR), the rent limit for a Section 8 certificate or voucher holder is $799. Thus, the 4d program permits rents that are unaffordable to all Section 8 tenants.

While our survey results do not provide conclusive evidence of non-compliance with the 4d program, they do indicate that there are owners taking advantage of 4d's lower property taxes without providing the required access for Section 8 tenants. Certainly, from the point of view of a caller to those complexes (such as our survey volunteers), a significant number of apartment complexes that are benefiting from the program's low property taxes do not appear to be complying with its requirement to accept Section 8 applicants and a few appear to be out of compliance with its rent restrictions.

HOME Line will be following up on this finding from our 1999 survey to determine whether our results are an aberration or whether they do indicate an enforcement problem with the 4d program. We will present our results to the Minnesota Housing Finance Agency, the governmental body which monitors and enforces the 4d program.

APPENDIX 1. Housing Choice Voucher Program

The 1998 Quality Housing and Work Responsibility Act included a provision to merge the Section 8 certificate and voucher programs into a single new " Housing Choice Voucher Program ." Under the implementing regulations which became effective October 1, 1999, all new tenant-based Section 8 assistance leases and HAP contracts (the agreements between the Section 8 issuing agencies and participating landlords) will be under the new program.

The following summarizes major features of the new Housing Choice Vouchers:

1. Payment standards. The subsidy amount is based on a payment standard set by the Public Housing Agency (PHA) anywhere between 90% to 110% of the HUD-published fair market rent (FMR). HUD may approve payment standards lower than 90% of FMR and payment standards higher than 110% of FMR. Prior HUD-approved area exception rents will continue to apply in the new voucher program (unless withdrawn or modified by HUD). HUD may require PHA payment standard changes because of incidence of high rent burdens.

2. Tenant payment. A family renting a unit below the payment standard pays as gross rent the highest of: 30% of monthly adjusted income, 10% of monthly income (gross income), the welfare rent (in States where the welfare payment is adjusted in accordance with actual housing costs), or the PHA-established statutory minimum rent. There is no voucher "shopping incentive" (for a family that rents a unit below the payment standard). A family renting a unit above the payment standard pays the highest of 30% of monthly adjusted income, 10% of monthly income, the welfare rent, or minimum rent, plus any rent above the payment standard.

3. Maximum initial rent burden. A family must not pay more than 40% of adjusted income for rent when the family first receives Section 8 tenant-based assistance for occupancy of a particular unit. This new requirement only applies for a family that initially receives tenant-based assistance for occupancy of a unit after the effective date of this rule (called the "merger date"). However, the maximum initial rent burden requirement is not applicable if the family stays in the same unit where the family initially received certificate or voucher assistance for occupancy of the unit before the effective date of this rule. The maximum initial rent burden requirement is applicable each time a participant moves to a new unit.

4. Income limits. Eligibility is limited to a: a. Very low-income family; b. Low-income family continuously assisted under the public housing, Section 23, or Section 8 programs; c. Low-income family that is a nonpurchasing tenant in certain homeownership programs; d. Low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined at 24 CFR 248.101; or e. Low-income family that meets PHA-specified criteria.

5. Applicant selection. PHA applicant selection preferences must be based on local housing needs and priorities. In determining the preferences, the PHA must use "generally accepted data sources" including public comments on the PHA plan and the Consolidated Plan. PHAs are urged to consider adopting admission preferences for victims of domestic violence.

6. Optional PHA screening of applicants. Although the screening and selection of tenants will remain the function of the owner, the PHA may elect to screen applicants in accordance with any HUD requirements.

7. Optional PHA disapproval of owners. The PHA may refuse to enter into new Section 8 Housing Assistance Payment (HAP) contracts with owners who refuse (or have a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the (1) premises by tenants, PHA employees or owner employees, or (2) the residences by neighbors.

8. Initial lease term. The PHA may approve an initial lease term of less than 1 year if a lease of less than 1 year is prevailing local practice and the PHA determines that the shorter term

will improve housing opportunities for the family.

9. Lease form and content. The lease form must be in the standard form used in the locality by the owner. The lease must contain terms that are consistent with State and local law, and that apply generally to unassisted tenants in the same property. The HAP contract and the lease must contain the HUD prescribed tenancy addendum.

10. Housing Quality Standards (HQS). Units must pass the federally established HQS or substitute local housing codes or codes adopted by PHAs. Substitute local housing codes or codes adopted by PHAs: (a) cannot severely restrict housing choice; and (b) must meet or exceed the HQS (unless HUD approves a lower standard that does not adversely affect the health or safety of families, and will significantly increase affordable housing access and expand housing opportunities).

11. Fifteen calendar day initial HQS inspection deadline. PHAs with 1,250 or fewer tenant-based Section 8 units must conduct initial HQS inspections within 15 days after receipt of an inspection request from the family and owner. PHAs with more than 1,250 tenant-based Section 8 units must conduct initial HQS inspections within a "reasonable period" of the family's and owner's inspection request.

12. PHA penalties for late payment of housing assistance to owners. In the future, the HAP contract will provide for penalties against the PHA for late payment of the housing assistance payment to the owner. Any late payment penalties may only be imposed in accordance with generally accepted practices in the local housing market governing penalties for late payment of rent by a tenant. For example, the PHA may be required to pay a late fee to an owner if the housing assistance payment is not paid by the tenth day of the month if it is local practice that an unassisted tenant is charged a late fee when the rent has not been paid in full by the tenth day of each month. A late payment fee may only be paid from the PHA's administrative fee income (including available amounts in the HA administrative fee reserve). The PHA is not obligated to pay any late fee if HUD determines that the late payment is due to factors beyond the control of the PHA (e.g., late receipt of the Section 8 funds from Treasury). The rule also provides that the PHA may add HAP contract provisions which define when the HAP payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

13. Section 8 "endless lease" and owner termination notices. The "endless lease" provision and the 90-day owner termination notice are permanently repealed.

14. Technical and conforming amendments including elimination of Section 8 SRO approvals. The requirements for a HUD determination of a significant demand for SROs, PHA and local government approval of SRO use, and a PHA and local government certification that the SRO meets local SRO health and safety standards have been eliminated.

15. Portability. The 1998 Act grants the statutory right of nationwide participant portability to the jurisdiction of any PHA that is administering the Section 8 voucher program. This right was previously established by HUD's program regulation. PHAs may opt to require applicants who were nonresidents at the time of application to live in the PHA's jurisdiction during the first year. PHAs must not issue a participant a new voucher for a portable move if the family has moved out of the family's unit in violation of the lease.

16. Elimination of "take-one, take-all" provision. The "take-one, take-all" provision is permanently eliminated. This provision required that an owner who entered into a Section 8 HAP contract on behalf of any tenant in a multifamily housing project could not refuse to lease otherwise affordable units in all multifamily projects of the owner if the reason for the refusal was that the family was a certificate or voucher holder.

Excerpts from: Federal Register Notice: Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs; Housing Choice Voucher Program; October 21, 1999.

APPENDIX II: About the survey

When and where it was conducted

The survey was conducted by telephone during July, August, and September of 1999. Cities in HOME Line's suburban Hennepin County service area were contacted for directories of rental housing in their jurisdictions. Such lists were received from 24 suburbs:

Bloomington	Crystal	Hopkins	New Hope	St. Anthony
Brooklyn Center	Eden Prairie	Maple Grove	Osseo	Spring Park
Brooklyn Park	Edina	Maple Plain	Plymouth	St. Louis Pk.
Champlin	Excelsior	Minnetonka	Richfield	Wayzata
Chanhassen	Golden Valley	Mound	Robbinsdale	

Who was contacted

Calls were placed by volunteers and staff to the offices of 351 apartment complexes containing 43,424 units. The survey concentrates on complexes containing two-bedroom apartments and at least six units. It excludes public housing or developments offering project-based Section 8.

The volunteers called as potential consumers and spoke to whomever answered the phone. The survey questions were straightforward and few. The basic purpose of the survey was to get an overview of the prospects for a Section 8 certificate- or voucher-holder to find a place to use the subsidy in suburban Hennepin County.

Because our callers were speaking to whomever answered the phone, we did not always get people with knowledge of the owner's decision-making or of the history of the complex. In fact, it was quite common for us to end up speaking with someone who didn't know whether or not the complex uses income requirements, let alone how these requirements apply to Section 8 renters. The inability to speak to an actual decision-maker (or someone knowledgeable) made the survey process a little more difficult. But more importantly, it demonstrates another of the difficulties encountered by apartment seekers who end up wasting application fees on complexes where tenancy is unlikely.

How we figured the results

In determining the number of units renting at or below the Fair market Rent (FMR), account was taken for the fact that HUD has allowed "exception rents" in certain higher cost suburbs. The high-cost suburbs and their two bedroom HUD-approved exception rents are shown below. The Metro Area FMR ($666 for a two bedroom unit) applies in the remainder of the cities surveyed. [This survey was conducted before the October 1, 1999 implementation of HUD's new Housing Choice Voucher Program, described in Appendix 1.]

Bloomington	$772	Eden Prairie	$773	Edina	$773	Golden Valley	$717
Hopkins	$714	Maple Grove	$773	Minnetonka	$773	Mound	$711
Plymouth	$772	Richfield	$773	Wayzata	$746		

What was asked: • What is the rent for a two bedroom apartment? •Do you accept Section 8? Certificates? Vouchers? •Do you have any minimum monthly income requirements at your complex? If so, how does a Section 8 subsidy apply?