

type of dwelling unit; similar variations as to other line items may be made if the LHA deems this equitable.

*Illustration.* The following is an illustration of the computation of the break-even amount based upon hypothetical amounts.

(1) Operating Expense (see § 904.109):		
Administration .....	\$8.50	
Homebuyer services .....	2.00	
Project supplied utilities .....	3.00	
Routine maintenance—common property .....	3.00	
Protective services .....	2.00	
General expense .....	6.50	
Nonroutine maintenance—common property (Contribution to operating reserve) .....	2.00	\$27.00
(2) Earned Home Payments Account (see § 904.110) .....		
		12.00
(3) Nonroutine Maintenance Reserve (see § 904.111) .....		
		7.50
Break-Even Amount .....		46.50

The break-even amount does not include the monthly allowance for utilities which the homebuyer pays for directly, nor does it include any amount for debt service on the Project notes.

(b) *Excess over break-even.* When the homebuyer's required monthly payment (see § 904.107(j)) exceeds the applicable break-even amount, the excess shall constitute additional Project income and shall be deposited and used in the same manner as other Project income.

(c) *Deficit in monthly payment.* When the homebuyer's required monthly payment is less than the applicable break-even amount, the deficit shall be applied as a reduction of that portion of the monthly payment designated for operating expense (i. e., as a reduction of Project income). In all such cases, the EHPA and the NRMR shall be credited with the amount included in the break-even amount for these accounts.

#### § 904.109 Monthly operating expense.

(a) *Definition and categories of monthly operating expense.* The term "monthly operating expense" means the monthly amount needed for the following purposes:

(1) *Administration.* Administrative salaries, travel, legal expenses, office supplies, postage, telephone and telegraph, etc.;

(2) *Homebuyer services.* LHA expenses in the achievement of social goals, including costs such as salaries, publications, payments to the HBA to assist its operation, contract and other costs;

(3) *Utilities.* Those utilities (such as water), if any, to be furnished by the LHA as part of operating expense;

(4) *Routine maintenance—common property.* For community building, grounds, and other common areas, if any. The amount required for routine maintenance of common property depends upon the type of common property included in the development and the extent of the LHA's responsibility for maintenance (see also § 904.109(c));

(5) *Protective services.* The cost of supplemental protective services paid by the LHA for the protection of persons and property;

(6) *General expense.* Premiums for fire and other insurance, payments in lieu of taxes to the local taxing body, collection losses, payroll taxes, etc.;

(7) *Nonroutine maintenance—common property (Contribution to operating reserve).* Extraordinary maintenance of equipment applicable to the community building and grounds, and unanticipated items for non-dwelling structures (see § 904.112).

(b) *Monthly operating expense rate.* The monthly operating expense rate for each fiscal year shall be established on the basis of the LHA's HUD-approved operating budget for that fiscal year. The operating budget may be revised during the course of the fiscal year in accordance with HUD requirements. If it is subsequently determined that the actual operating expense for a fiscal year was more or less than the amount provided by the monthly operating expense established for that fiscal year, the rate of monthly operating expenses to be established for the next fiscal year may be adjusted to account for the difference (see § 904.112(b)). Such adjustment may result in a change in the required monthly payment, see § 904.107(j)(3).

(c) *Provision for common property maintenance.* During the period the LHA is responsible for the maintenance of common property, the annual operating budget and the monthly operating expense rate shall include the amount required for routine maintenance of all common property in the development, even though a number of the homes may have been acquired by homebuyers. During such period, this amount shall be computed on the basis

of the total number of homes in the development (i. e., the annual amount budgeted for routine maintenance of common property shall be divided by the number of homes in the development, resulting in the annual amount for each home; this figure shall in turn be divided by 12 to determine the monthly amount to be included in the monthly operating expense (and in the break-even amount) for routine maintenance of common property). After the home owners association assumes responsibility for maintenance of common property, the monthly operating expense (and break-even amount) shall include an amount equal to the monthly assessment by the homeowners association for the remaining homes owned by the LHA (see §904.112(b) for nonroutine maintenance of common property).

(d) *Posting of monthly operating expense statement.* A statement showing the budgeted monthly amount allocated in the current operating budget to each operating expense category shall be provided to the HBA and copies shall be provided to homebuyers upon request.

**§904.110 Earned Home Payments Account (EHPA)**

(a) *Credits to the account.* The LHA shall establish and maintain a separate EHPA for each homebuyer. Since the homebuyer is responsible for maintaining the home, a portion of his required monthly payment equal to the LHA's estimate, approved by HUD, of the monthly cost for such routine maintenance, taking into consideration the relative type and size of the homebuyer's home, shall be set aside in his EHPA. In addition, this account shall be credited with

(1) Any voluntary payments made pursuant to paragraph (f) of this section, and

(2) Any amount earned through the performance of maintenance as provided in paragraph (d) of this section and §904.111(c).

(b) *Charges to the account.* (1) If for any reason the homebuyer is unable or fails to perform any item of required maintenance as described in §904.107(a), the LHA shall arrange to have the work done in accordance with the pro-

cedures established by the LHA and the HBA and the cost thereof shall be charged to the homebuyer's EHPA. Inspections of the home shall be made jointly by the LHA and the HBA.

(2) To the extent NRMR expense is attributable to the negligence of the homebuyer as determined by the HBA and approved by the LHA (see §904.111), the cost thereof shall be charged to the EHPA.

(c) *Exercise of option; required amount in EHPA.* The homebuyer may exercise his option to buy the home, by paying the applicable purchase price pursuant to §904.113 or §904.115, only after satisfying the following conditions precedent:

(1) Within the first two years of his occupancy, he has achieved a balance in his EHPA equal to 20 times the amount of the monthly EHPA credit as initially determined in accordance with paragraph (a) of this section;

(2) He has met, and is continuing to meet, the requirements of the Homebuyers Ownership Opportunity Agreement;

(3) He has rendered, and is continuing to render, satisfactory performance of his responsibilities to the HBA.

When the homebuyer has met these conditions precedent, the LHA shall give the homebuyer a certificate to that effect. After achieving the required minimum EHPA balance within the first two years of his occupancy, the homebuyer shall continue to provide the required maintenance, thereby continuing to add to his EHPA. If the homebuyer fails to meet either his obligation to achieve the minimum EHPA balance, as specified, or his obligation thereafter to continue adding to the EHPA, the LHA and the HBA shall investigate and take appropriate corrective action, including termination of the Agreement by the LHA in accordance with §904.107(m).

(d) *Additional equity through maintenance of common property.* Homebuyers may earn additional EHPA credits by providing in whole or in part any of the maintenance necessary to the common property of the development. When such maintenance is to be provided by the homebuyer, this may be done and credit earned therefor only pursuant to a prior written agreement between the