CHAPTER 7. CONVEYING HUD-OWNED ONE-TO FOUR-FAMILY PROPERTIES FOR USE IN APPROVED URBAN HOMESTEADING PROGRAMS

7-1. LISTING OF HUD-OWNED PROPERTIES FOR POTENTIAL APPLICANTS

A. To facilitate local planning and program development in accordance with the statute and program requirements of 24 CFR Part 590.9, a potential applicant may submit a written request to the appropriate HUD Field Office for a current listing of all one- to four-unit, HUD-owned, unoccupied properties within the applicant's jurisdiction not subject to executed repair or sale contracts or leases.

3. After receiving the request, the Property Disposition Branch shall provide a current list of those HUD-owned properties for which repair or sales contracts or leases have not been executed. This list must be made accessible to the public during the applicant's or LUHA's ordinary business hours.

7-2. PROPERTY DISPOSITION PROCEDURES FOR CONVEYING HUD-OWNED PROPERTIES

The Field Office's Property Disposition Branch (PD) shall support approved urban homesteading programs as follows:

A. Suspension of Property Disposition Activity. Upon execution of the initial Urban Homesteading Agreement by the Field Office Manager, but prior to the initial selection of any HUD-owned property for the first program year, a LUHA may request the Field Office to suspend its routine property disposition activity for up to 45 calendar days on properties identified by the LUHA as being located in the designated urban homesteading neighborhood(s). Based upon this request, PD shall state in writing the opening and closing dates for the suspension of property disposition activity for all such designated HUD-owned properties, except those for which repair or sales contracts, or leases have been executed. During this suspension period, the LUHA may notify the HUD Field Office of the specific HUD-owned properties, from among those previously identified, that it intends to use in its local urban homesteading program. Properties coming into the HUD inventory during or after the suspension period shall be handled as provided in paragraph B.

B. Notification of Field Office's Acquisition of Single Family Property in the Urban Homesteading Neighborhoods. No later than 10 calendar days after receipt of Form HUD-27011, Single Family Application for Insurance Benefits, which is the mortgage insurance claims form from the mortgagee, for an unoccupied, one-to four-family residence in a HUD-approved urban homesteading neighborhood, PD staff shall notify the LUHA of the potential availability of the property for homesteading. The notification shall be in writing and shall include the street address and zip code. PD shall provide a copy to the Urban Homesteading Coordinator.

1. The notification shall inform the LUHA that it has 21 calendar days From the date of the notice to notify the Field Office that it wishes to use the property for homesteading. A property disposition program for a property shall not be approved until the LUHA has notified PD in writing whether it intends to use the property in its homesteading program, or until 21 calendar days from the date of the notification whichever comes first. This 21-day deadline May be extended if PD determines that the locality's response within 21 calendar days is impracticable. However, continual inability of the LUHA to respond within the original 21-day period shall be investigated by the Urban Homesteading Coordinator who may decline making funds available pursuant to HUD authority under 590.29(a)(4).

2. This notification procedure to the LUHA shall cease when PD is notified by the Urban Homesteading Coordinator that the program is to be closed out, or all Section 810 funds have been fully obligated for the year, unless a request for additional Section 810 funds is under consideration for the Field Office.

3. No one- to four-unit property located within the designated neighborhoods which is unoccupied, unrepaired, or without a contract for sale or repair or a lease shall be withheld from this notification procedure by PD staff except as permitted by the following subparagraph C.

C. Exceptions to offering eligible HUD-owned properties to approved urban homesteading programs. Field Offices may withhold the offer of a property to a LUHA when the Field Office Manager determines in writing that there is a higher priority need because of one of the following legal obligations:

1. the settlement of a sales warranty claim;

2. the settlement of a claim under Section 518 of the National Housing Act for critical structural defects in a one- to four-family property whose mortgage was insured by HUD;

3. emergency housing needs (disaster housing and urgent public housing needs such as providing shelter for the homeless);

4. reconveyance of title of property to mortgagee for noncompliance with regulations for claim procedures (see 24 CFR 203.363);

5. reconveyance pursuant to a Civil Frauds Act settlement;

6. reconveyance where the mortgage was never insured; and

7. reconveyance for other legal obligations as determined by HUD, i.e., properties for which HUD is unable to obtain good marketable title; or for which an extremely long delay can be foreseen in obtaining good marketable title.

D. Failure to transfer suitable properties. All properties requested by a LUHA and meeting the criteria of Paragraph 7-3, A., B. and C. shall be offered for transfer by the PD staff. If the PD staff believe that a property should not be transferred for other reasons not described in paragraph C. above, they shall contact the LUHA and the Urban Homesteading Coordinator to work out a suitable resolution to the problem. The Coordinator shall consult with the PD staff and, if necessary, Field Counsel with respect to resolving the matter.

E. LUHA Actions to Acquire Property. At the same time the LUHA notifies PD that it wants to acquire a property, the LUHA will send a certification of property eligibility and acquisition costs to the Urban Homesteading Coordinator. This is the Verification of Fund Availability, HUD-40050, shown in Appendix 14. The Urban Homesteading Coordinator confirms the eligibility of the property and prepares a Form HUD-718, Funds Reservation and Contract Authority, for validation by the RAD. PD staff and the, LUHA will hold the closing upon written notification by the CPD Urban Homesteading Coordinator that funds have been reserved. (See Chapter 6, paragraph 6-1, B. and C.)

F. Flood Insurance Purchase Review by Property Disposition. The Flood Disaster Protection Act requires that flood insurance be obtained for eligible properties. (See paragraph 3-4 of this Handbook.) The PD Staff shall address the following:

1. Do the current maps of the National Flood Insurance Program (NFIP) reveal that the proposed urban homesteading area is located within the Flood Hazard Zone "A" and "V" series and for which purchase of flood insurance is mandatory as a condition of approval? If so, flood insurance will be required for building located within the special flood hazard area.

2. Is flood insurance available within the community or has the community been suspended from or is not otherwise participating in the NFIP? If the NFIP has identified the community as flood-prone for at least one year, and the community is not participating in the NFIP, homesteading cannot take place in those areas of the community that are

designated as having special flood hazards. A list entitled "Communities

Participating in the National Flood Insurance Program" is forwarded to HUD Field Offices periodically by FEMA with the necessary information on community participation.

G. Time Limitation of 30 calendar days for Accepting Title of Property. The LUHA has 30 calendar days hold settlement from the date of its notice to PD that it will accept title to a property. (An alternative disposition plan may be approved for the property if the LUHA fails to accept title within such deadline.) The Field Office Manager may extend this 30-day period for a reasonable period of time if acceptance by the LUHA within the original 30-day period is impracticable. The environmental review required for a specific property will be completed by PD staff, and by CPD staff under paragraph 4-3, C.3, if applicable, as soon as possible, so as to allow the LUHA to acquire the property within the original 30-day period. This may be extended if the Field Office Manager finds that more time is required to comply with historic preservation or floodplain management requirements applicable to the property. Failure by the LUHA to act in a timely manner, except for environmental concerns, shall be investigated by the Urban Homesteading Coordinator and a reservation may be cancelled if the closing does not occur within the allotted time.

7-3. ELIGIBILITY CRITERIA FOR CONVEYING HUD-OWNED PROPERTY TO APPROVED URBAN HOMESTEADING PROGRAMS

A. The Criteria. Within the time period described in 24 CFR 590.17, the PD staff shall transfer the title to eligible HUD-owned properties to a LUHA, without receiving payment from the agency, if the following criteria are met:

1. the initial application (including execution of an Urban Homesteading Program Participation Agreement), or subsequent annual request for program participation, has been approved by HUD;

2. the properties are in a HUD-approved urban homesteading neighborhood;

3. the Urban Homesteading Coordinator has reserved by a Form HUD-718 the necessary Section 810 funds to reimburse the FHA Mortgage Insurance Fund or the Section 312 Rehabilitation Loan Fund for the as-is fair market value of the property, or a negotiated lesser amount, plus closing costs;

4. the requested property is unoccupied, needs repair and is not

subject to a repair or sales contract or a lease; and

5. the requested property is suitable for the approved urban homesteading program. A property is suitable if the appraised as-is fair market value of the property or a negotiated lesser amount does not exceed $25,000 (excluding closing costs), except as noted in B. below, for a one-unit single-family residence or an additional $8,000 for each unit of two- to four-family residences. The as-is property value shall be developed in accordance with the requirements of HUD Handbook 4310.5 REV-1. PD provides a 10% discount off the as-is fair market value for all properties offered to LUHAs.

B. Authorization to Acquire Higher-Value Properties with Section 810 Funds. The Field Office Manager may authorize on a property-by-property basis the transfer of a HUD-owned property where the value exceeds the limitations stated in paragraph 7-3, A.5 for a one-unit property; but the approved higher value shall not ordinarily exceed $35,000. This authorization request is prepared by the Urban Homesteading Coordinator. (Headquarters shall approve all requests above $35,000.) For two- to four-unit properties, the cost remains at $8,000 for each additional unit. This authorization of a higher value should be granted only if such a transfer will assist in meeting the neighborhood preservation goals, where it will benefit the community by the expedited occupancy of the property and the reduction of difficulties (such as vandalism to the property) and delays that HUD typically encounters in the disposition and sale of property, and where suitable properties for large families exist. Authorization to exceed the $25,000 value will mean that more funds will be used on fewer properties, and therefore the decision to grant such an authorization should also take into consideration the effect of reduced assets toward achievement of the LUHA's neighborhood preservation goals. The decision to grant a higher authorization should be a rare instance and not a matter of routine. Typically, there should be few, if any, higher valued properties unless the LUHA is willing to provide the supplemental funds. If this is not the case and exceptions to use Section 810 funds for higher value properties are the rule, then the Field Office should consider the LUHA for close out. There will be no program-wide authorization for higher value properties.

C. Use of Additional Local Resources. If a LUHA wishes to conserve its Section 810 resources, or if the Field Office should decide not to authorize an increase of the Section 810 limit above $25,000, or some other fixed amount, properties of higher price may be purchased by the LUHA with a combination of Section 810 and other resources such as CDBG funds (See paragraph 7-5 for the cost breakout). This can be done by:

1. the Urban Homesteading Coordinator performing all Section 810 fund control procedures listed in Chapter 6, paragraph 6-1;

2. the LUHA paying the Department of Housing and Urban Development at closing the amount of the difference between what the Field Office has set as a Section 810 cost limit plus closing costs and the agreed upon price for the property; and

3. the Urban Homesteading Coordinator forwarding the LUHA's check with the appropriate closing documents to the RAD so that the FHA Mortgage Insurance Fund or the Section 312 Rehabilitation Loan Fund can be reimbursed. Such use of additional funds does not affect the Section 810 requirement for transfer of the property to the homesteader for nominal consideration only.

7-4. THE VALUE OF HUD-OWNED PROPERTY TO BE DEDUCTED FROM SECTION 810 FUNDS RESERVATIONS

The amount charged to the Section 810 reservation for an approved LUHA shall not exceed the as-is value of an eligible HUD-held property (See paragraph 7-3, A. 5. and B). In addition, the Section 810 account may be charged for such allowable closing costs and fees customarily charged in similar transactions in the locality if normally charged to the buyer by HUD including, but not limited to, recording fees and local transfer taxes. The actual amount to be charged to the Section 810 account appears in the computation noted in paragraph 7-5. Since HUD will provide evidence of marketable title upon transfer of properties to LUHAs, local purchase of title policies will not ordinarily be necessary. However, if a title policy is desired by the LUHA, for the period prior to conditional conveyance, the LUHA must cover the expense itself. For the period after conditional conveyance to the homesteader, the LUHA may include title insurance as a covered expense in the homesteader's rehabilitation loan. HUD's share of prorated unpaid property taxes and other property liens (e.g., utility bills) are paid out of the appropriate insurance or loan fund and not out of the Section 810 account. Prepaid taxes are to be handled as described in paragraph 7-5. The LUHA's share of these prorated items is borne by the LUHA, not the Section 810 account or the homesteader.

7-5. PREPARATION OF CLOSING PAPERS

In addition to the standard closing procedures performed in accordance with HUD Handbook 4310.5 REV-1, the following are additional instructions for preparing closing documents and transmitting them to the RAD:

A. Sales Contract. The standard retail sales contract, HUD-9548, must be used. The contract sales price must be the property's "as-is" fair market value, or a negotiated lesser amount.

B. Form HUD-9589. The Form HUD-9589, Transmittal of Closing Information (Appendix 15), is prepared by the PD staff or the closing agent who will check "Urban Homestead Sale" in Block 5. Additional information for Block 5 is reflected on the reverse side of the form. This information consists of a formula for arriving at the amount to be charged to the Section 810 account:

1. Contract sales price of property.

2. Plus closing costs.

3. Minus amount paid in cash by LUHA (non-Section 810 funds).

4. Amount charged to Section 810. (This is the amount the RAD will reimburse the FHA insurance fund or the Section 312 loan fund.)

Please note the amount the LUHA has paid to reimburse HUD for any prepaid taxes is located in Block 5 of the HUD-9589.

C. Form HUD-1. The HUD-1, Settlement Statement (Appendix 16), shall be filled out so as to completely describe the sales closing. The as-is, fair market value or negotiated lesser amount shall be the contract price for the sale and will appear on Line 101 and 401. The amount reimbursed to tile FHA fund or the Section 312 Rehabilitation Loan Fund from a LUHA's Section 810 allocation must appear on Line 509 of the HUD-1 as "Section 810 reimbursement, P.O.C." (P.O.C. stands for paid outside of closing, since the reimbursement occurs after closing.) The Section 810 reimbursement consists of the sales price of the property, or a portion thereof, plus closing costs normally paid by the buyer of HUD-owned property. The amount exceeding the Section 810 limit (see paragraph 7-3 C.) will appear on Lines 208 and 508. Do not include reimbursement for prepaid taxes in this amount.

Immediately after settlement, the PD staff shall provide copies of the HUD-9589 and HUD-1 to the Urban Homesteading Coordinator for transmission to the RAD. After receiving the HUD-1 and HUD-9589, if the Urban Homesteading Coordinator should determine that some costs are not allowable, the Urban Homesteading Coordinator shall make adjustments on the HUD-9589 prior to transmitting the package to the RAD, and return copies of the amended HUD-9589 and the revised HUD-718 to PD.

D. Deed. The deed shall be prepared in triplicate by PD or PD's Contract Closing Agent. The original shall be forwarded to the LUHA after recordation by PD or a PD Contract Closing Agent. A copy shall be retained in the property case binder.

E. Title Evidence. PD shall furnish the appropriate title evidence in its possession at the time of closing to the LUHA. The LUHA may purchase a title policy locally at its own expense if it is required at closing and title evidence satisfactory to the local jurisdiction is not available from HUD. This is not a reimbursable expense from Section 810.

F. Real Estate Taxes. Real estate taxes shall be processed as follows:

1. Taxes Unpaid by HUD. Where PD has not yet paid the taxes, and the closing statement would ordinarily reflect a credit to the LUHA for HUD's share of the taxes, the Form HUD-1 shall reflect HUD's prorated share of taxes to the date of closing. An SF-1034 shall be prepared by PD showing the LUHA as the payee and setting forth the amount of HUD's prorated share of the taxes due to the LUHA. A copy of the voucher shall be attached to the HUD-9589 and HUD-1 submitted to the Urban Homesteading Coordinator, and the original voucher shall be forwarded for processing and payment to Single Family Accounting and Management System Contractor, Data Prompt Incorporated, P.O. Box 3579, Silver Spring, MD 20918-0579.

2. Taxes Prepaid by HUD. When HUD has prepaid the real estate taxes and would be due a refund at closing, PD shall request a refund from the LUHA, which shall be reflected on the HUD-9589. PROPERTIES ARE NOT TO BE CONVEYED UNTIL PREPAID TAXES ARE REFUNDED. When the prepaid taxes are received, PD shall deposit them in accordance with the Fiscal and ADP Handbook, 4110.1 REV, and then notify the RAD on the Schedule of Collection, Form HUD-2022. The notification shall include the case number and address of the property on which prepaid taxes were received along with the following typewritten notation: "Taxes Due HUD on Urban Homesteading Transfer."

G. Transmission and Distribution of Closing Documents. PD shall comply with Handbook 4310.5, REV-1 regarding the prompt transmission of closing papers. The HUD-9589 must include the correct fiscal year Urban Homesteading number assigned to the locality in which the property being sold is located (See Chapter 5). The PD staff shall transmit closing statements and appropriate vouchers or receipts as necessary, to the Urban Homesteading Coordinator immediately after closing. The Urban Homesteading Coordinator shall then attach a copy of the executed Form HUD-713, and immediately transmit it to the RAD for processing. For closings held near the end of the fiscal year or on September 30, all documents must be received by the RAD no later than the third work day in October or on such date as agreed upon between the Urban Homesteading Coordinator and the RAD.