



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

OFFICE OF GENERAL COUNSEL

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Subject: Section 223(a)(7) Refinancing Loans - Our Lady of Mercy Medical Center, Bronx, NY

MEMORANDUM FOR: Roger E. Miller, Deputy Director, Office of Insured Healthcare
Facilities, HI

FROM: John J. Daly, Associate General Counsel for Insured Housing, CI

SUBJECT: Section 223(a)(7) Refinancing Loans - Our Lady of Mercy Medical Center, Bronx, NY

This memorandum provides legal advice for use in your response to an October 24, 2002 inquiry (copy attached) from Michael E. Mazer of the law firm of Krooth & Altman concerning the applicable debenture interest rate under Section 224 of the National Housing Act for a proposed new Section 223(a)(7) refinancing loan (the "New Loan") for Our Lady of Mercy Medical Center. The New Loan would be used to refinance an outstanding Section 223(a)(7) loan (the "1995 Loan"). The 1995 Loan was used to refinance the Medical Center's original loan that was insured in 1979 under Section 242 (the "Original Loan").

Section 223(a)(7)(A)(iv) of the National Housing Act provides that FHA insurance on a multifamily mortgage refinanced pursuant to Section 223(a)(7) "shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract." Therefore, the existing insurance contract remains in effect after a refinancing pursuant to Section 223(a)(7), subject to any amendments, so long as the correct FHA insurance endorsement panel was used to implement the authority in Section 223(a)(7)(A)(iv). Since the existing insurance contract would remain in effect, the corresponding regulations applicable to the existing insurance contract that were in effect on the date of endorsement also would remain in effect.

In this case, the debenture interest rate that would apply to the New Loan would be the rate applicable to the Original Loan so long as the correct FHA insurance endorsement panel was used on the note for the 1995 Loan and is used on the note for the New Loan. The note endorsement panels for the 1995 Loan and for the New Loan should indicate that the loan is insured under Section 223(a)(7) pursuant to an amendment to the existing insurance contract.

I trust this information will be useful in responding to Mr. Mazer's inquiry. Please contact Michael Collotta at ext. 5249 if you have any questions or desire further assistance.