



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: November 9, 2018
Mortgagee Letter 2018-10

TO: FHA Multifamily Lenders
 FHA Multifamily Borrowers
 HUD Multifamily Production Staff

SUBJECT: Guest Suites in Multifamily Housing under the National Housing Act

PURPOSE

This Mortgagee Letter provides best practice guidance to determine under what circumstances guest suites are permissible in multifamily rental, or cooperative projects with mortgages insured or held by HUD under the National Housing Act.

BACKGROUND

Section 513 of the National Housing Act prohibits a multifamily Borrower from renting or permitting the rental of a multifamily housing project for “transient or hotel purposes.” To comply with the statute, leases, subleases and occupancy agreements for less than thirty days are prohibited. In addition, neither a Borrower nor its residents may rent a room or unit with customary hotel services such as room service for food and beverages, housekeeping service, furnishing and laundering of linens, and bellhop service, regardless of the length of stay. Borrowers are legally bound to comply with and enforce these statutory requirements via execution of their Regulatory Agreement (HUD-92466M) and Borrower’s Oath (HUD-92478M).

In certain circumstances multifamily Borrowers may set aside a unit or otherwise create a limited number of guest suites as an amenity for residents. The guest suites are typically available for reservation by residents as overnight accommodations for their relatives and guests. Depending on the project, a guest suite may be a minimally furnished unit (bed including pillows and bed linens, a chair or loveseat, and bathroom furnished with towels) or may be a completely furnished unit with living room furniture and a full kitchen.

BEST PRACTICES

HUD recognizes that inclusion of guest suites as an amenity may contribute to the marketability of certain multifamily projects. However, guest suites are only permissible to the extent their use is consistent with the National Housing Act’s prohibition against use of FHA-insured multifamily projects for transient or hotel purposes. The following are best practices to help

ensure that inclusion of guest suites as an amenity does not violate the statutory prohibition. In assessing whether guest suites comply with the prohibition on the rental for transient or hotel purposes, HUD will take the following factors into consideration:

1. Rental charges are not imposed, and except for the charge described in item 2, the project does not derive income from any guest suite.
2. To prepare the guest suite for the next guest's stay, a one-time cleaning and laundering fee may be charged to the resident that reserves the guest suite, at cost, for services provided after the conclusion of the guest's stay. Guests are not responsible for or directly charged any fees for use of the guest suite.
3. The project does not provide cleaning, linens, or other customary hotel services to the guest during their stay in the guest suite.
4. Use of any guest suite is limited to residents' friends and family. Guest suites are not available to the public.
5. Only project residents are permitted to reserve the guest suite; the project does not independently rent the guest suite.
6. Residents are limited to two (2) reservations within a one (1) year period, and up to a maximum of seven (7) reservation days per resident.
7. The number of guest suites are no more than two (2) percent of the total number of units in the project. This will ensure that the operation of the property is not skewed in such a way as to affect its statutorily required residential character.

Borrowers are reminded that violations of the transient or hotel prohibition will be subject to the standard sanctions for violations of the Regulatory Agreement and Borrower's Oath. If violations are not cured within the timeframes HUD provides, HUD is required to refer the matter to the Department of Justice pursuant to Section 513.

IMPLEMENTATION

This best practice guidance is effective immediately for all new and existing FHA-insured and HUD-held multifamily rental and cooperative projects with a HUD Regulatory Agreement containing the Section 513 prohibition and will be considered for incorporation into the next versions of the MAP Guide and HUD Handbook 4350.1, Multifamily Asset Management and Project Servicing.

If there are any questions regarding this Mortgagee Letter, please contact Thomas A. Bernaciak, Deputy Director, Office of Multifamily Production at (202) 402-3242 or Thomas.A.Bernaciak@hud.gov. Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1.877.TDD.2HUD 1-877-833-2483.

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