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CHAPTER 10. PREPAID PROJECTS

- 10-1. Introduction. Prepayment may occur in conjunction with the actions stated in Paragraphs A. through C. below:
- A. Approval of a Plan of Action (POA) to Prepay the mortgage or terminate low-income affordability restrictions pursuant to Chapter 8 Section B. Tenants may not be displaced when this type of prepayment occurs. For guidance, see Paragraph 10-2.
  - B. Permissible Prepayments for reasons listed below. Tenants may be displaced when permissible prepayment occurs. For guidance, see Paragraphs 10-3 through 10-6.
    - 1. Inability to sell the project under voluntary or mandatory sale provisions pursuant to Chapter 7, Paragraphs 7-14 or 7-15.
    - 2. Approval of a POA for incentives but HUD does not provide the assistance approved in the POA within the time frames specified in Chapter 8, Paragraph 8-31.
    - 3. Expiration of a Section 8 LMSA contract which HUD is unable to renew in accordance with Chapter 11, Paragraph 11-11.
  - C. Sale of a Project to a Resident Council under the Resident Homeownership Program. Tenants may not be displaced. For guidance see Chapter 9.
- 10-2. Approval of a POA to Terminate the Low-Income Affordability Restrictions. Loan Management Branch may approve a POA to terminate the low-income affordability restrictions only if the conditions specified in Paragraph 8-13 can be met. These conditions include: (1) comparable and affordable housing is readily available in the community at project rent levels; (2) the owner must sign a Use Agreement guaranteeing that tenants living at the

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project at POA approval will not be involuntarily displaced, due to the approval, prior to the maturity date of the initial mortgage; and (3) rent increases due to the POA approval are limited to the amounts shown in Paragraph 8-13.A.1.a. Rent increases above those specified in Paragraph 8-13.A.1.a. constitute involuntary displacement. Because one of the conditions of POA approval includes the aforementioned rent limits, the actions that HUD and the owner are required to take to help involuntarily displaced tenants should be minimal and are described below:

- A. Loan Management Staff Actions: At least 30 days prior to acceptance of the prepayment, Loan Management staff must send each tenant in the project a letter in the form of Appendix 10-1, Notification to Tenants of Acceptance of Prepayment. LOG letters sent A copy of this letter also must be sent to the owner who must post it in each affected building. The letter advises tenants to contact the Loan Management Branch if the owner violates the Use Agreement which it signed in order to receive approval of the POA.
- B. Owner's Actions:
  - 1. Within five days of receiving Appendix 10-1 from HUD, the owner must post copies in each affected building.
  - 2. At its option, the owner may provide reasonable relocation assistance to tenants who voluntarily move. Any tenant may choose to accept or reject an incentive to move offered by the owner. HUD will not make Section 8 rental assistance available to help owners induce tenants to move.
- C. If the Loan Management Branch receives notification of violations of the Use Agreement, it will contact the Preservation Division for further guidance since Field Offices do not have the authority to take the necessary actions. The owner may be found to have violated the Use Agreement even if no one actually moves from the project; e.g., if the owner raises rents more than allowed.

10-3. Relocation of Displaced Tenants Under Permissible Prepayment. Loan Management staff may approve a permissible prepayment for the reasons specified in Paragraph 10-1.B. When any one of those things occur, owners and Loan Management staff are required to take certain actions to help tenants who are displaced due to the prepayment. There are additional actions owners may volunteer to take. Please note that the Uniform Relocation Act is not triggered by the permissible prepayments defined in Paragraph 10-1.B. The required and voluntary actions consist of the following:

A. Owners' Actions:

1. By the earlier of 15 days after approval of the permissible prepayment or 30 days before HUD accepts the prepayment, the owner must provide the Loan Management staff with the names and addresses of all project residents. LOG date when resident listings are received
2. Loan Management staff will send the owner Appendix 10-2, Notification to Tenants of Available Protection or Appendix 10-3, Notification to Tenants in Low-Vacancy Areas of Available Protection. Within five days of receiving the notification from HUD, the owner must post a copy of such notice from HUD in each affected building. In some cases, as described in Paragraph B. below, both notices must be posted.
3. The owner must review the tenant profiles to identify and compile a list of tenants living at the project at the time of POA approval who are expected to be displaced. A tenant who moves permanently will be considered displaced if the move occurs after:
  - a. The tenant is ordered to vacate the property;
  - b. The owner refuses to renew the tenant's lease;

- c. The tenant's rent is increased, causing the Total Tenant Payment (TTP) of rent plus utility allowance to increase more than the amounts allowed in POAs to prepay. These amounts are defined in Chapter 8, Paragraph 8-13.A.1.a. The owner must calculate these percentages and increases for each tenant, maintain the information at the project office, and make it available to HUD staff upon request.
4. By the earlier of 30 days after identifying the tenants expected to be displaced, or 30 days prior to the date the owner prepays the mortgage, the owner must submit the following information to the Loan Management Branch for each tenant identified in Paragraph 3 above:
  - a. Name and address;
  - b. The unit size in which the tenant is currently dwelling;
  - c. Whether the tenant qualifies as a special needs tenant in accordance with Chapter 1, Paragraph 1-15, along with a statement describing the nature of the special need and the date the tenant first occupied the project;
  - d. A list of tenants receiving Section 8 rental assistance;
  - e. A list of tenants who are very low-income but not receiving Section 8 rental assistance, along with documentation of their eligibility; and
  - f. Whether the tenant currently pays more than 30 percent of its adjusted monthly income for TTP along with the percentage of income the tenant is paying.

5. Owners are required to pay 50 percent of the actual, reasonable, relocation expenses for all displaced tenants as described in Paragraph 10-5. Additional protections are available to special needs tenants and those living in low-vacancy areas in accordance with Paragraph 10-4.
  6. The owner must provide, as part of any relocation assistance program, 50 percent of the expense of fair housing related counseling to those tenants affected by the proposed prepayment. Such counseling, advisory services and referrals should include information on the individual's rights under the Fair Housing Act and State and local fair housing laws and the process for filing and adjudicating a complaint of discrimination.
- B. Loan Management Staff Actions:
1. At least 30 days prior to acceptance of the permissible prepayment, Loan Management staff must send each tenant in the project a letter in the form of Appendix 10-2. If it has been determined that the project is located in a low-vacancy area, Appendix 10-3 should be sent in lieu of Appendix 10-2; or, in addition to Appendix 10-2 if it has already been sent. LOG letters sent Loan Management staff must also send a copy of the appropriate letter to the owner who must post it in each affected building.
  2. Subject to appropriations, the Loan Management staff must make Section 8 vouchers or certificates available to help very low- or low-income tenants who are displaced. Further direction is provided in Paragraph 10-6.
  3. Loan Management staff must attempt to help tenants identified as likely to be displaced in Paragraph A.3. above to locate new housing by:
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- a. Coordinating with local public housing agencies to help any identified very low- or low-income tenant acquire a suitable, decent, safe, sanitary, and affordable dwelling unit in the same or nearby area;
  - b. Requesting from the public housing agencies located in the same area as the affected project, a list of vacant units in low-rent public housing and other affordable projects that would be suitable for the displaced tenants; and
  - c. Providing the identified tenants with the list of vacant units in low-rent public housing, along with the addresses of the local public housing agencies and a list of other HUD-subsidized housing. The lists must identify both the units and projects located within and outside of areas of minority and low-income concentration.
- C. Displaced Tenants who are not Identified by the Owner. Tenants living in the project at the time HUD accepts the prepayment, who should have been identified as displaced, in accordance with Paragraphs A.3. and A.4. above, but were not, are eligible for all benefits described in this Chapter.
- 10-4. Mandatory Continued Occupancy for Permissible Prepayment. The following protections apply to tenants living in projects subject to permissible prepayment in accordance with Paragraph 10-1.B.:
- A. Protected Tenants. There are two categories of potentially displaced tenants who have guaranteed protection if they occupied a unit on the date of submission of the Initial Notice of Intent (NOI):
    - 1. Tenants with special needs as defined in Chapter 1, Paragraph 1-15; and
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2. Tenants living in low-vacancy areas (vacancy rate under four percent) where the owner has been notified by the local Field Office within 30 days of the request to prepay, in accordance with Chapter 11, Paragraph 11-12, that the area is designated low-vacancy.

B. Tenant Protection.

1. Tenants meeting the requirements of Paragraph A. above, must be allowed to remain in the project for a period of at least three years from the date of prepayment or termination of the mortgage insurance contract. The TTP may not be raised for special needs tenants, except where rent increases are made necessary by increased operating costs and utility rates.
2. If the tenant voluntarily agrees, the owner may meet the provision of continued occupancy by providing the assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same three-year period and at a cost to the tenant not to exceed the tenant's projected TTP in the owner's project. The owner would pay relocation expenses incurred by displaced tenants who relocate pursuant to this Paragraph, to the extent necessary to induce affected tenants to move voluntarily, but in no case less than the expenses outlined in Paragraph 10-5.
3. At least three months prior to the expiration of the three-year protection period, the owner must:
  - a. Identify the tenants whose protection is ending and who will be involuntarily displaced. The identification will be made in the manner outlined in Paragraph 10-3. A.3;
  - b. Send identified tenants a letter similar to that in Appendix 10-2



to the extent that State or local law of general applicability requires a higher payment. Such allowable expenses are cited in Paragraph B. below.

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- B. Allowable costs for moving: The owner may choose one of the following options to determine actual, reasonable moving expenses:
1. Provide actual, reasonable and necessary moving expenses for the unit's legitimate occupants. Each tenant should contact a moving company of their choice to obtain information about the amount of actual costs for moving and give this information to the owner. Such expenses may include, but are not limited to:
    - a. Transportation of the person and personal property for a reasonable distance;
    - b. Packing, crating, uncrating and unpacking of the personal property;
    - c. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property;
    - d. Utility hook-ups, including reinstallation of telephone and cable television service;
    - e. Insurance for the replacement value of the property in connection with the move and necessary storage;
    - f. Credit checks;
    - g. Other moving-related expenses determined to be reasonable and necessary. Documentation of special needs may be required; and
    - h. Necessary advisory services, i.e., timely information, counseling (including Fair Housing Counseling),

and referrals to suitable, affordable, decent, safe, and sanitary housing, as defined in Paragraph 1-15.

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2. Offer tenants a moving expense and dislocation allowance. The amount of the allowance must be determined in accordance with a schedule of allowances established by the owner that takes into account the number of rooms in the tenant's present dwelling and whether the tenant owns and must move the furniture. The moving allowance also must include the costs of advisory services shown in Paragraph 1.h. above. Any tenant may refuse the dislocation allowance and request actual expenses in accordance with Paragraph 1. above.
- C. When the procedures outlined in Paragraphs A. and B. above have been completed, the owner and tenant must agree in writing on the cost of the move and the amount to be reimbursed. If the owner and tenant do not agree on a moving expense payment, then each of them may contact the Loan Management Branch to receive further guidance.

10-6. Section 8 Assistance for Permissible Prepayment.

A. Available to Tenants.

1. Each very low- or low-income family displaced as a result of a prepayment described in Paragraphs 10-1.B., subject to the availability of funds, will be eligible to receive Section 8 rental assistance in the form of Section 8 certificates or vouchers in accordance with HUD requirements. At its discretion, PIH may set the Section 8 existing fair market rent levels for the project at "the exception rent" in order to allow tenants to use certificates to remain at the project. Exception rents will be established in accordance with HUD requirements.

2. Special needs tenants, whose three-year protection period has expired, will be given priority by HUD for receiving Section 8 assistance, if eligible.

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- B. Owners Must Accept. The owner of a prepaid project that continues to be used as residential rental property may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rental of a dwelling unit in such project to any person who receives a Section 8 certificate or voucher. Further, the owner may not discriminate against any such person in the terms, conditions, privileges or rental of a unit, or in the provision of services or facilities in connection with the unit because the family or the person receives Section 8 rental assistance.
- 10-7. Applicability of the Uniform Relocation Act (URA). The relocation policies of the URA are not triggered by multifamily housing preservation activities carried out in accordance with the policies and requirements of Title VI of the 1990 Act. If a tenant is displaced as a direct result of acquisition, demolition, or rehabilitation for a federally assisted project in conjunction with the Preservation process, the tenant would qualify for URA assistance as a "displaced person."
- 10-8. Provisions of the Use Agreement. In addition to the requirements for Use Agreements stated elsewhere in this Chapter, all Use Agreements must require compliance with the Fair Housing Act and all its applicable regulations, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975.

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