

FIELD OFFICE LETTERHEAD

LETTER TO OWNER TRANSMITTING APPRAISAL GUIDELINES

Appraisal Guidelines

Dear _____:

We have received your Notice of Intent (NOI) to extend low-income affordability restrictions for the remaining useful life of the project or to transfer the project to an owner who will extend low-income affordability restrictions. We have determined your project, _____, located in _____, _____ to be an eligible project, subject to the results of the Windfall Profits Test. In order to determine fair compensation for you for not prepaying your mortgage, Section 213 of Subtitle A of Title VI of the National Affordable Housing Act of 1990 requires the owner and HUD to separately contract for independent appraisers. These appraisers will each perform an appraisal based on certain assumptions as outlined in the enclosed Appraisal Guidelines.

An independent appraiser is defined as one who is not an employee of the Federal Government or an employee or officer of any entity that is affiliated with the owner of the property. The appraiser must not be the subject of a charge issued following a reasonable cause determination under the Fair Housing Act.

The appraiser must meet the following qualifications:

1. Six years of appraisal experience with three years in appraising multifamily projects; and

2. Certified or licensed by the State in accordance with Title 11 of the Federal Financial Institution Reform, Recovery Act of 1989. The States are scheduled to have licensing procedures and standards in place by December 31, 1992.

Appraisers have four months from the date HUD received your NOI to complete their assignments. HUD Loan Management will forward to its appraiser, and we are requesting that you provide your appraiser, the following:

1. A set of original plans and specifications, if available.
2. Last three years of audited financial statements.

In addition, please provide both appraisers access to the project to the extent needed to complete the appraisals.

There will be a physical inspection of your property to determine the Capital Needs for your project (required repairs and replacement reserve analysis) followed by an exit conference to discuss the findings with all interested parties. The required repairs will bring the property up to good condition and meet local codes and the Housing Quality Standards as outlined in 24 CFR 886.113. Those present at this inspection should be HUD's Architectural and Engineering staff or contractor, you or your representative, both appraisers or their representatives, any local code enforcement officials and tenant representatives who wish to attend, and HUD Loan Management staff. All these people in addition to any tenants and representatives of State and local government who wish to attend are invited to the exit conference. We will be in contact with you and the concerned parties as to the time and exact meeting place for both the physical inspection and exit conference. You are encouraged to submit at this inspection any studies, reports on the physical condition of your property, etc. to the HUD inspector / contractor. Comments from tenants and State and Local officials may also be provided to the inspector / contractor up to the time of the exit conference. The exit conference will be used to discuss the results of the inspection. You must post the date and time when advised of it.

4/92

2 of 3

4350.6

APPENDIX 5-1

Within 60 days of HUD's receipt of the NOT, HUD will provide you and your appraiser a preliminary list of the repairs and their cost (See Appraisal Guidelines for further explanation). Only those repairs required to bring the property up to good condition, exclusive of HUD regulatory requirements that are not a requirement of the local governing body or local appraisal custom, will be furnished the appraisers for their consideration in their value estimates. Within 120 days of receipt of the NOI, HUD will provide you with the total results of the Capital Needs

Assessment.

When the appraisals are completed they will be exchanged for review by HUD and yourself. Once the appraisals have been found acceptable (adheres to the appraisal guidelines, proper support for conclusions, and etc.), we will attempt to come to a agreement with you on the preservation values. If agreement cannot be reached on the values, a third appraiser will be hired by you from HUD's pool of independent appraisers. You may not give the appraiser any of the data from either of the two previous appraisals. HUD will reimburse you for half the cost of the third appraisal. The appraiser will have two months to complete the assignment. Once reviewed by HUD and yourself and found to be acceptable with respect to the appraisal guidelines and adequate documentation, the values as set by this appraisal will be binding.

Once the values have been set, we will provide you with further information.

Attached is a Tenant Notice which must be posted in all occupied buildings of the project. Copies of the Tenant Notice, along with this letter, should be given to any known tenant representative.

Sincerely

Chief, Loan Management Branch

ATTACHMENTS: Appraisal Guidelines and Notice to Tenants
cc: All tenant representatives
State and Local Officials

3 of 3

4/92

4350.6

APPENDIX 5-1A

FIELD OFFICE LETTERHEAD

NOTICE TO TENANTS

As you were previously told, there will be an inspection of (name of project) to determine what repairs need to be made by the owner or purchaser. If there are repairs you would like to have considered, please submit your list to the Housing and Urban Development (HUD) Office whose address is shown below. You will only be given a few days, notice of the date on which the inspection is to be held and you will have to submit your list by that date, so you may want to be sure to complete it now. You may also submit your list to any tenant representative whose name and address are shown on this letter and ask that representative to help to see that your request is taken into account.

At the time you are told the date of the inspection, you will also be told the date and time for a meeting following the inspection. The purpose of this meeting will be to discuss the repairs which need to be done. The tenant representatives listed on the next page, as well as any other tenant representatives, are all invited to attend the inspection and the meeting. While you are also invited to attend the meeting, it is not necessary for you to do so if you have submitted your list to either HUD or a tenant representative.

HUD intends to give incentives to the owners or purchasers of _____, in order to keep the housing affordable for you. You will be advised of the steps taken and decisions made during the lengthy process and will be given further opportunity to comment.

The address for the HUD Office is:

Name of Field Office: _____

Address: _____

City, State, and Zip Code: _____

4/92

1 of 2

4350.6

APPENDIX 5-1A

Telephone Number: _____
(Loan Management Branch)

The tenant representatives that we have contacted are:

(1)

Name: _____

Address: _____

City and State: _____

Telephone Number: _____

(2)

Name: _____

Address: _____

City and State: _____

* *

form HUD-9607

4/92

2 of 2

4/92

4350.6

APPENDIX 5-3

USE FIELD OFFICE LETTERHEAD

LETTER TO OWNER TRANSMITTING INFORMATION FOR
EXTENDING AFFORDABILITY RESTRICTIONS
THROUGH RETENTION OR SALE

DATE _____

Dear _____:

We have completed our review of the appraisal information you submitted on __ (date) __ in order to extend the affordability of (name of project). You should use the following information as a guide to develop a Plan of Action (POA) to carry out your intentions:

(All answers are copied from the corresponding section of Form HUD-9607 except that those in Section X should be entered into Paragraph IX 4a ii below.)

- I. Extension Preservation Value\$_____.
- II. Transfer Preservation Value\$_____.
- III. Extension Preservation Equity ...\$_____.
- IV. Transfer Preservation Equity.....\$_____.
- V. Annual Authorized Return to Owner.\$_____.

If you are retaining ownership of the project, the annual authorized return is the maximum amount you may take as an annual distribution. A portion of this distribution may be used to pay debt service on an incentive equity loan. However, there are two conditions:

- (1) The debt service payment may not exceed 90 percent of the authorized return; and
- (2) The equity loan may not exceed 70 percent of the extension preservation equity shown in Paragraph III above. Ten percent of any equity loan will be

4350.6

APPENDIX 5-3

escrowed in an interest bearing account for a five-year period until a history of proper project maintenance is established.

VI. Federal Cost Limit \$_____.

The Federal Cost Limit (FCL) is based on (check one):

- 1. Fair Market Rents (FMR)
- 2. Prevailing Market Rents (PMR)

VII. Extension Preservation Rent\$_____.

Extension Preservation Rent (EPR) includes debt service and debt service coverage on the underlying mortgage and on any required loan(s) for 90 percent of rehabilitation costs as determined by the Capital Needs Assessment, the annual authorized return to owner, estimated operating expenses, required deposits to the reserve account, and a three percent vacancy allowance.

The values of these component factors are shown on Form Hud-9607, Calculation of Information to be Returned to Owner, which is appended to this letter.

Attachment B to this letter, Required Repairs and Estimated Costs, describes any rehabilitation that HUD has identified as necessary. You will have to obtain actual costs for these repairs when submitting your POA. We will also evaluate any additional rehabilitation items and costs you wish to include in your POA.

VIII. Transfer Preservation Rent\$_____.

Transfer preservation rent (TPR) includes debt service and debt service coverage on the underlying mortgage, acquisition loan, and any required loan(s) for 90 percent of rehabilitation costs as determined by the Capital Needs Assessment, estimated operating expenses, required deposits to the reserve account, and a three percent vacancy allowance.

The values of these component factors are shown on Form HUD-9607 which is appended to this letter.

Attachment B to this letter describes any rehabilitation that HUD has identified as necessary. You will have to obtain actual costs for these repairs when submitting your POA. We will evaluate any additional rehabilitation items and costs you wish to include in your POA.

The maximum acquisition loan HUD will insure is 95 percent of the transfer preservation equity shown in Paragraph IV above or 95 percent of the purchase price minus the unpaid balance of all federally-assisted mortgages, whichever is lower.

IX. Federal Cost Limit Compared with Preservation Rents

All the conditions checked below apply to your options. You may choose to follow whichever course you like.

(Field Office please check all that apply)

HUD records show that you have an open audit finding or other finding of non-compliance which prevents approval of a POA until it is resolved.

1. EPR is less than or equal to the FCL:
 - a. Within six months of receipt of this letter, you may submit a POA to extend affordability. This Plan should reflect the information included in Paragraphs V and VII above about annual return to owner/equity loan and rehabilitation loans. The approvable annual gross rent for the project may not exceed the FCL, which will be 120 percent of FMRs or PMRs in your area.
 - b. Section 8 rental assistance is available for all current very low- and low-income tenants who need it.

tenants may only pay the lower of 30 percent of adjusted income or FMR.

- c. The POA should include all incentives requested, cash flow projections to show how physical and financial requirements for the project will be met, a current tenant income profile as well as the earliest one available for January, 1987, 1988, or 1989 along with a certification that the earlier profile is no longer available if the one for January, 1987 is not used, a description of all other assistance to be received including tax credits, and any other information deemed necessary to make the POA approvable. For more information, see HUD Handbook 4350.6, Chapter 8.
- d. All POAs should also include:
 - i. An agreement to extend affordability restrictions for the remaining useful life of the project. A petition to HUD for a hearing to determine that the useful life has expired may not be filed for 50 years from the date of Plan of Action approval.
 - ii. An agreement to maintain the same proportion of very low-, low-, or moderate-income tenants at the project as prevailed at whichever of the following times yields the highest proportion of very low-income tenants: (1) The time the Plan is submitted; or (2) January, 1987, or if the January, 1987 profile is not available, the earliest profile available after that date. This

requirement does not mean that a larger proportion of very low-income tenants cannot be served.

- iii. An agreement to rehabilitate the project to its conditions at

original rent-up including required repairs identified in the Capital Needs Assessment and any additional repairs relating to Housing Quality Standards (HQS) and Minimum Property Standards (MPS) including any lead-based paint and asbestos abatement requirements, and to provide a 10 percent commitment of equity for the rehabilitation loan.

- iv. An agreement that 10 percent of any incentive equity loan will be escrowed for a minimum of five years to assure project rehabilitation and maintenance.
 - v. An agreement to accept Section 8 or other rental assistance, if needed.
- e. Simultaneously with submitting a POA to HUD, you must submit it to the same official of the State or local government to whom you submitted your NOI. In addition, you must notify the tenants about the plan by posting a summary of the POA in each occupied building. This summary must state that the tenants have 60 days to comment on the POA. You must also give a copy of the POA to any tenant representative(s). The summary must indicate that a copy of the POA is available for inspection and copying, at a reasonable cost during normal business hours from:

4/92

5 of 9

4350.6

APPENDIX 5-3

- i. The tenant representatives, whose names, addresses and telephone numbers are listed on the summary;
- ii. The local HUD Field Office; and
- iii. The on-site office for the project or in the location where

rents are collected. If you know of no tenant representative, this statement must be certified to the Department when the POA is submitted.

2. EPR exceeds FCL: Within six months of receipt of this letter, you may submit a POA to extend affordability. All conditions in Paragraph 1 above apply. Since the other expense components that must be covered by project income are likely to be fixed, choosing this option may entail accepting a cash return and/or equity loan lower than that calculated as the annual authorized return shown in Paragraph V above.
3. TPR is less than or equal to FCL:
 - a. Within 30 days of receipt of this letter, you may submit Form HUD-9609, Second Notice of Intent (NOI) (enclosed), for a voluntary sale of the project. When you have a purchaser, you and the purchaser will prepare a POA to transfer and repair the project. (See Paragraphs 1 c through e above for further direction) The purchaser may also request eight percent of the equity paid as an annual return. If the purchaser is a nonprofit organization, the return must be deposited in the project's residual receipts account. The

approvable annual gross rent for the project may not exceed the FCL, which will be 120 percent of FMRs or PMRs in your area. A priority purchaser may be eligible to receive a grant to pay any portion of the costs which will not be paid by rents. It may also apply for a loan or grant to cover acquisition costs.

- b. Section 8 rental assistance is available for all current very low- and low-income tenants who need it. However, current moderate-income

tenants may only pay the lower of 30 percent of adjusted income or FMR.

- c. Attachment A to this letter, Instructions for Sales of Projects: Voluntary or Mandatory Sales, describes requirements for sales to priority and qualified purchasers.
4. TPR exceeds the FCL:
- a. Within 30 days you may submit one of the following:
 - i. Form HUD-9609, Second NOI (enclosed) to prepay your loan by first trying to sell the project through a mandatory sale;
 - ii. Form HUD-9609 for a voluntary sale conditioned on an annual gross rent that does not exceed the FCL. Since the other expense components that must be covered by project income are likely to be fixed, choosing this option may entail accepting a sales price lower than the Transfer Preservation Value (TPV) shown in Paragraph II above. To bring current TPR to the FCL, your

4350.6

APPENDIX 5-3

acquisition loan would have to be reduced to \$_____, which, at current rates and terms, can support a sales price of \$_____ (copy from Form HUD-9607, Section X, C and E);

- b. When you have a purchaser, you and the purchaser will prepare a POA to acquire and repair the project. (See Paragraphs 1 c through e above for further direction.) The purchaser may also request eight percent of the equity paid as an annual return. If the purchaser is a nonprofit organization, the return must be deposited in the project's residual receipts account. If this is a

mandatory sale, any qualified purchaser may qualify for a grant to reduce the approvable annual gross rent for the project to the FCL. A priority purchaser may be eligible to receive a grant to pay acquisition costs.

- c. If this project is sold through a transfer of physical assets (TPA), Section 8 rental assistance is available for all current very low- and low-income tenants who need it. However, current moderate-income tenants may only pay the lower of 30 percent of adjusted income or FMR.
- d. Attachment A to this letter, Instructions for Sales of Projects: Voluntary or Mandatory Sales, which is attached, describes requirements for sales to priority and qualified purchasers.

4/92

8 of 9

4350.6

APPENDIX 5-3

Attachments to this letter, Required Repairs and Estimated Costs, Notice to Tenants, and Form HUD-9607, Calculation of Information to be Returned to Owner, along with this letter must be posted at each affected building. The Notice to Tenants, should be placed on top.

Sincerely,

Chief, Loan Management Branch

ENCLOSURE: Form HUD 9609, Second Notice of Intent

ATTACHMENTS: A, B, C, Form 9607

cc: Tenant representatives
State and Local Officials
Copies for posting

9 of 9

4/92

4350.6

APPENDIX 5-3A

ATTACHMENT A
INSTRUCTIONS FOR SALES OF PROJECTS:
VOLUNTARY OR MANDATORY SALES

1. For a 12-month period commencing when the Second Notice of Intent is received, offers may only be accepted by a priority purchaser. During the first six-month period, offers may only be accepted from a Resident Council offering to purchase the project under a Resident Homeownership Program or a Resident Council or community-based nonprofit organization, which has the support of a majority of the tenants and which intends to maintain the project as rental housing. During a second six-month period, offers may be accepted from other priority purchasers (i.e. State or Local governments and any other nonprofit organizations).
2. Between the 12th and 15th month, offers may be accepted from any qualified purchaser, which includes limited dividend partnerships, as well as priority purchasers.
3. A bona fide offer consists of a contract of sale signed by the purchaser contingent upon approval by HUD of the offer and of a subsequent Plan of Action (POA), and an earnest money deposit of the lowest of one percent of the transfer preservation value (TPV), \$50,000, or \$500/unit. For mandatory sales, the offering price must be at TPV. At the time of submission of Form HUD-9609 Second Notice of Intent (NOI), the owner may choose to waive the requirement for or reduce the amount of an earnest money deposit for all potential purchasers, except Resident Councils purchasing under a Resident Homeownership program. If this requirement is waived, it must be clearly stated on the Second NOI. The owner may also waive or reduce the earnest money deposit during the sales period through written notice to HUD. Such a waiver must also be equally applicable to all purchasers, except Resident Councils purchasing under a Resident Homeownership Program.

APPENDIX 5-3A

If the purchaser is a Resident Council or community-based nonprofit organization purchasing the project for rental with the support of a majority of the tenants, the offer must include certification of the tenant support.

If the purchaser is a Resident Council purchasing

under a Resident Homeownership Program, the earnest money deposit will be a minimum of \$200 per unit from 75 percent of the occupied units. The offer from a Resident Council must also include a certified list representing 75 percent of all occupied units and 50 percent of all units in the project.

4. A purchase offer may not be for more than the TPV. An owner may not prepay if at least one bona fide offer is received from a qualified purchaser. An owner seeking a mandatory sale must accept the first bona fide offer received from a qualified purchaser. If any owner receives an offer to purchase the project for a sales price less than the TPV of the project, the owner may accept the offer but is not obligated to do so.
5. The purchaser and seller of the project will jointly submit a POA, which includes a Transfer of Physical Assets package. Appropriate information will be provided by HUD to the prospective purchaser at acceptance of a bona fide offer.

4/92

2 of 2

4350.6

APPENDIX 5-3B

ATTACHMENT B
REQUIRED REPAIRS AND ESTIMATED COSTS

REPAIRS

ESTIMATED COSTS

1 of 1

4/92

4350.6

APPENDIX 5-3C

FIELD OFFICE LETTERHEAD

ATTACHMENT C
NOTICE TO TENANTS

The attached information has been sent to the owner of (name of project) in response to the request to get incentives to keep the project affordable for you. These attachments include information about required repairs to the project as well as the options the owner has for extending the affordability. You may obtain further information by contacting HUD or your tenant representative(s) at the addresses below.

Chief, Loan Management _____

HUD Field Office: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

TENANT REPRESENTATIVES

1. Name: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

2. Name: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

4350.6

APPENDIX 5-3C

ATTACHMENTS:

Attachment B, Required Repairs and Estimated Costs

Form HUD-9607, Calculation of Information to Be Returned to
Owner

Letter to Owner Transmitting Information