

CHAPTER 2. GENERAL APPLICABILITY, BASIC TERMS AND PROCEDURES

- 2-1. SELECTION OF OCCUPANTS. All families and individuals subject to normal tenant selection are eligible for occupancy. There is no restriction by virtue of the tenant's income. The only requirements are:
- a. The mortgagor must furnish an oath indicating that he will not discriminate in selecting a tenant because of race, color, creed, sex, national origin or the fact that there are children in the family. Where the project is designed for elderly occupancy the oath may exclude any reference to discrimination against children in the family.
  - b. There may not be any leases executed for a period of less than thirty days, or transient rentals, nor can the mortgagor provide occupants with the customary hotel services such as room service for food and beverages, maid services, furnishing and laundering of linens, and \* bellboy services.
  - c. The sponsor must furnish a Fair Housing Marketing Certification as shown in Exhibit 2 of this Handbook.
- 2-2. MORTGAGE TERM. The term of the mortgage shall not be less than 10 years, nor shall it exceed the lesser of 35 years or 75% of the estimated remaining economic life of the physical improvements.
- 2-3. REFINANCING PROPERTIES IN OLDER DECLINING URBAN AREAS. In the case of refinancing, if the property is located in an older, declining urban area, as referred to in paragraph 7-1 of this Handbook, the refinancing may not be used to lower the monthly debt service except as necessary to assure the economic viability of the project.
- 2-4. FEES AND CHARGES. The application fee for conditional commitment is \$2 per \$1,000 of the amount of the mortgage applied for. The application fee for firm commitment is \$3 per \$1,000, less the amount of any fees previously received with the application for conditional commitment.
- 2-5. INTEREST RATE. The interest rate may not exceed the maximum interest rate permitted for FHA insured mortgages under Section 207 as determined by the Secretary from time to time. The annual mortgage insurance premium (MIP) is 1 percent per annum from the date of final endorsement to the anniversary date of the first principal payment, and 1/2 of 1 percent per annum for subsequent years, of the average outstanding principal balance of the mortgage.
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- 2-6. RENTAL RATES. Private mortgagors will be allowed a reasonable rate of return. The maximum rental that may be charged is determined on a project by project basis. Project owners may

not charge a gross rental in excess of that determined by HUD-FHA as necessary to pay a fee for adequate management and to meet all expenses, reserve funding, mortgage obligations and provide a reasonable profit. With prior HUD-FHA approval, the rental income maximum may be increased in response to demonstrated increases in operating expenses or other necessary approved expense increases. Dividends may be paid from surplus cash in accordance with Handbook 4371.1 and FHA Form No. 2466, Regulatory Agreement for Multifamily Housing Projects.

2-7. APPLICATION PROCEDURE. Before the application is filed, the sponsor shall have a conference with the local field office serving the area in which the property is located. The next step is the submission of a formal application for conditional or firm commitment, using FHA Form No. 2013, through a HUD-FHA approved mortgagee. The sponsor should be advised to contact the local building inspector's office to secure an inspection report identifying any local code violations or indicating the property to be free of code violations. Applications for insurance as purchase or refinance transactions may be submitted for either a conditional or firm commitment (as the sponsor/mortgagor chooses) with all required exhibits. If a conditional commitment is not issued, the reason will be given. If a firm commitment is applied for, and the mortgagor is not acceptable due to financial considerations, a conditional commitment should be issued if the subject property would be eligible for insurance. In such cases a separate written statement of the reason why a firm commitment was not issued should be attached to the conditional commitment. (The entire fee, \$3.00 per \$1,000, is earned). If reconsideration of value is desired, the sponsor must submit at least three recent sales of comparable projects in support of his request.

a. Exhibits Required at Conditional Stage. The exhibits listed below are required on all applications unless otherwise specified and must be submitted before processing begins by any technical underwriting discipline.

(1) FHA Form 2013, Application. Complete Sections A, B (Item 25 only, C, D, E, F, J, and K).

(2) Application Fee of \$2 per \$1,000 of the requested mortgage amount.

(3) A legal description of the property.

(4) A current "as built" survey and Surveyor's Certificate, FHA Form 2457.

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(5) A copy of the occupancy permit for all units submitted and the project final inspection report. (Not required if issuance of these documents is not

a local practice time of construction.)

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- (6) One set of Plans and Specifications for any project under 10 years of age. For a project older than 10 years, this submission is not mandatory, however, if available, one set of Plans and Specifications should be submitted to facilitate processing. These items will be returned to the sponsor/owner at initial/final endorsement.
- (7) A list of any repairs to be made to the project which are to be included in the value.
- (8) Rent Roll of Subject Property, in columnar form, as of any day in the month of the application for conditional commitment, (See Exhibit 1), which includes the following information:
  - (a) Apartment number and type (e.g., 1BR) all apartments must be listed, whether they are vacant or occupied.
  - (b) Tenant name. "Vacant" is entered where there is no tenant.
  - (c) Rental rate. The rent rate being paid by the tenant is shown. If the apartment is occupied on a nonpaying basis, e.g., resident manager, maintenance, etc., zero is entered.
  - (d) Term of lease (monthly, yearly, etc.).
  - (e) Date of first occupancy. The date that the tenant occupied the apartment is shown.
  - (f) Remarks. Indicate "U" to denote an unfurnished apartment or "F" to denote a furnished apartment. Also, for those apartments which are occupied by nonpaying tenants, give explanation.
  - (g) The owner's signature and certification on the rent roll attesting that it is correct.
  - (h) Certification on the rent roll from the mortgagee that he has verified the rents being charged for each unit type and that the stated rental and occupancy dates are correct.

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- (9) Balance sheet, operating statement, and "Statement of Changes in Financial Position", all of which must be audited by an IPA or CPA, on the existing facility for the latest fiscal year. If more than 3 months have expired since the closing date of the financial statements, a year-to-date balance sheet

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and operating statement must also be submitted. \*

(Purchase Transaction Only.)

(10) Balance sheets, operating statements, and "Statement of Changes in Financial Position" on the existing facility for the last 3 years prior to submission of the application to HUD. The latest year's statements must be audited by an IPA or CPA. If more than 3 months have expired since the closing date of the latest year's statements, a year-to-date balance sheet and operating statement must also be submitted. (Refinancing transaction only.) \*

(11) FHA Form 2530's on all principals as defined in Section 200.212 of the FHA Regulations. \*

b. Exhibits Required at Firm Commitment Stage: The exhibits listed below are required on all applications unless otherwise specified and must be submitted before processing begins by any technical underwriting discipline. \*

(1) FHA Form 2013, Application. Complete Section A, B (Item 25 only), C, D, E, F, J, and K.

(2) Application Fee of \$3 per \$1,000 of the requested mortgage amount less any amount previously remitted for application fees.

(3) A management program and management agreement as described in Paragraph 1-4g and h.

(4) A "Fair Housing Marketing Certification" as shown in Exhibit 2 of this Handbook.

(5) For nonprofit projects only. FHA Form 3433, "Request for Preliminary Determination of Eligibility as Nonprofit Sponsor or Mortgagor".

(6) FHA Form 2010, Equal Employment Opportunity Certification.

(7) FHA Form 2530's on all principals, as referred to in Item

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11 above, for whom FHA Form 2530's were not submitted at the conditional commitment stage. \*

(8) A statement, certified to be true and correct by the seller, purchaser and mortgagee (to the best of its knowledge and belief) clearly disclosing all identities of interest that exist or will exist between any and all parties involved in the proposal.

- (9) A statement reflecting the balance in all existing escrow accounts, including the Reserve Fund for Replacements, if any.
- (10) Evidence from the mortgagee regarding permanent mortgage financing charges, including discount(s), if any. If FNMA or GNMA will provide the permanent financing, appropriate documentation relative to their participation and financing charges must be furnished.
- (11) Fully complete FHA Form No. 2417's, "Personal Financial and Credit Statement", or their equivalents (which must include bank and trade references) on the new sponsor(s) or any individual who will provide funds to meet the cash requirements.
- (12) A copy of the article creating tile mortgagor entity (Partnewship Agreement).
- (13) A copy of the Purchase Agreement certified to be true and correct by the seller, purchaser and mortgagee fully disclosing, (1) all assets, e.g., reserve for replacements and liabilities to be transferred with the sale, (2) whether or not the seller will make the repairs, and (3) whether or not the cost of the required repairs is included in the purchase price (Purchase transaction only).
- (14) An updated rent roll prepared in accordance with instructions set forth in subparagraph a(7) above.
- \* (15) A statement by the mortgagor listing all outstanding obligations of the project whether secured or unsecured. The statement must contain the following language, "I hereby certify that the above constitutes all secured and unsecured obligations against this project," and must be signed by the mortgagor. (Refinancing Transactions only.) \*
- (16) A title search report (Report of Conveyance, Mortgage and Judgments) which discloses all liens, secured,

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transactions, former owners, and dates of the transfer of owners for a three year period prior to the submission of the application to HUD.

- \* c. If the project is processed directly for firm commitment, the items listed in subparagraph a above must be submitted with the application for firm commitment in addition to the items listed in subparagraph b above. \*
- d. Field offices may not add to the list of required

\* exhibits or require additional copies without approval of the Office of Underwriting Standards unless such exhibits are needed as outlined in Paragraphs 3-7c(1) or 6-12. \*

2-8. REPAIRS PRIOR TO ENDORSEMENT. In some instances, repairs may be necessary to improve the competitive position of the project which may have become impaired through obsolescence of design, functional plan or equipment. If the anticipated repairs and deferred maintenance will entail substantial rehabilitation, as defined in Paragraph 1-4i, then the application is not eligible under Section 223(f), but may be considered for submission as a rehabilitation project under another program.

2-9. COMMITMENT TERM. If Conditional Commitment is requested, the initial term shall not exceed 90 days from date of issuance. If necessary, the Conditional Commitment may be extended for additional 30-day periods, not to exceed a maximum of 90 days. If application is received for conversion of Conditional Commitment to Firm Commitment prior to the expiration date of the Conditional Commitment, including authorized extensions, an additional 30-day extension is permissible in order to allow time to issue the Firm Commitment.

If Firm Commitment is requested, the initial term of the Firm Commitment shall not exceed 90 days. If necessary, the Firm Commitment may be extended for one additional 30-day period. If an extension is necessary, beyond the maximum extension period authorized above, then a new application with required fee and exhibits must be submitted since the property would have to be reappraised.

2-10. REQUIREMENTS SUBSEQUENT TO FINAL CLOSING.

a. Reports. HUD-FHA requires all mortgagors to submit certified annual financial statements in accordance with HUD Handbook 4371.1. Any default in meeting the mortgage terms must be reported to HUD-FHA. Any change of the mortgagor during the period of mortgage insurance must be approved by HUD-FHA.

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b. Audits. HUD-FHA reserves the right to audit the accounts of the mortgagors or mortgagee to determine compliance with the statutes and HUD-FHA regulations and standards.

c. Records. Mortgagees are requested to service and maintain records in accordance with acceptable mortgage practices of prudent lending institutions and the HUD regulations.

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2-11. HOUSING MANAGEMENT PARTICIPATION. The Housing Management Division (HM) shall participate in the Section 223(f) program as follows:

a. Preapplication Conference. The HM Director shall be

invited to attend the preapplication conference to explain the required management exhibits and to answer any questions regarding them.

- b. Conditional Commitment Stage. At the conditional commitment stage, a copy of Form 2264 and a copy of the rent roll shall be forwarded to HM for review and comment on the expenses estimated by Valuation. The HM review shall be completed in accordance with instructions found in Circular HM 4381.2, Management Requirements in Processing Insured Multifamily Housing Projects.
- c. Firm Commitment Stage. The updated rent roll shall be forwarded to HM for review together with management plan and the management agreement which require HM review and approval. If, as a result of its review, HM determines that further adjustments to the expenses estimated at the conditional commitment stage are necessary, the CU shall be so advised.
- d. Action When the Conditional Commitment Stage is Bypassed. If the conditional commitment stage is bypassed and the application is processed directly for a firm commitment, a copy of Form No. 2264, a copy of the rent roll, and the management exhibits shall be forwarded to HM for review and approval at the firm commitment stage.

#### 2-12. ADMINISTERING OFFICES

- a. Regional and Field Offices. Sponsors interested in obtaining insurance benefits on existing multifamily rental projects should contact the nearest HUD Field Office in regard to the Section 223(f) program. \*

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- \* (2-12) b. Headquarters Office. Matters within the purview of the Washington Office shall be addressed to:

Director, Office of Underwriting Standards  
Housing Production and Mortgage Credit  
Department of Housing and Urban Development  
Washington, D. C. 20410

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