
CHAPTER 10. ALTERNATIVE USES OF FEDERALLY-CONVEYED URBAN HOMESTEADING
PROPERTY

10-1. AUTHORIZATION TO APPROVE ALTERNATIVE USE PROPOSALS

- A. Rationale. Alternative uses for homesteading properties shall be allowed only as a last resort, where homesteading the property has become infeasible. In appropriate cases, the Field Office may approve proposals for alternative property usage as described below. Before an alternative use is approved, however, a LUHA must demonstrate to the Field Office that it has made a good faith effort to homestead the property (i.e., repeated attempts to find a homesteader have failed), or the property must be in such poor condition (usually sufficient to justify local condemnation on grounds of imminent danger to health or safety) that homesteading obviously would be impossible. Alternative use requests should be infrequent, since each LUHA is responsible for inspecting each property prior to acquisition to determine the feasibility of rehabilitation and the marketability of each property. LUHAs are also responsible for conveying each property to a homesteader within one year of receiving title, pursuant to 24 CFR 590.7(b)(3).

Repeated requests to be relieved of the homesteading obligation would indicate that deficiencies exist in the LUHA's procedures for property selection, inspection, and homesteader selection or rehabilitation financing methods, and appropriate corrective actions should be taken pursuant to 24 CFR 590.21 or 590.29-31.

- B. Authorization. The Field Office Manager is authorized to approve alternative use proposals for federally conveyed properties only when he/she determines that homesteading the property is infeasible and the alternative use is consistent with the coordinated approach toward neighborhood improvements for the homesteading neighborhood.

10-2. ALTERNATIVE PROPERTY USES

After ensuring that homesteading the property is infeasible, the most important consideration in approving an alternative use is to determine if the proposed use is consistent with the plan to achieve a coordinated approach toward neighborhood improvement for the homesteading neighborhood developed pursuant to 24 CFR 590.7(a). The following guidelines should be followed by the Urban Homesteading Coordinator in making decisions related to alternative property uses.

- A. Alternative Use of Structure. Examples of alternative structure use which would normally further neighborhood improvement include a community center, a day care center, a recreation center, a temporary shelter for the homeless or other similar types of uses.

The locality should also show that funds are available to rehabilitate and convert the property to such use. If alternative uses of these types cannot be instituted, the options listed below may be considered. When considering requests for a alternative use involving rehabilitation and conversion, coordinators should request information explaining why a structure sound enough to warrant rehabilitation for alternative use is unsuitable for homesteading, e.g., a location not suitable for residential use.

- B. Demolition of the Structure. Demolition of an existing structure, by the LUHA or the transferee, can only be approved when an approvable alternative use for the land is submitted with the demolition proposal. (See paragraph 10-3 B.3.) Examples of alternative uses for the land include, but are not limited to, a park, a playground, a site for a community swimming pool, new construction of low-income housing, or sale to the adjacent homeowners. A condition of approval for demolition must require the locality or transferee to level the land, if the site cannot be prepared for the alternative use immediately. This precludes the existence of an unsightly or hazardous vacant lot in the interim period. However, land banking without definite plans for appropriate community or economic development in the immediate future is not an acceptable alternative use. The responsibility for financing property demolition and/or any alternative use rests with the LUHA and its transferee, if any. Section 8.10 funds cannot be used for funding these activities.
- C. Sale of the Property by the Locality. If the LUHA wishes to sell the property which cannot be homesteaded, or a vacant lot resulting from demolition of a house, and a determination is made that the sale would result in the furtherance of the locality's coordinated approach to neighborhood improvement, then sale of the property might be an approvable option. However, sale or transfer for the purpose of rehabilitation and residential reuse is not an approvable option. Such a sale indicates that homesteading the property would be feasible.

Where sale is an approvable option, the property should be sold at a price which reflects the current fair market value at the time of sale. A sale price below the fair market value, should be considered only if the sale is made to another public agency or a nonprofit organization with an established, operating program which would use the property to the benefit of the neighborhood, i.e., a temporary shelter for the homeless, day care center, a community or neighborhood center, etc. Such a sale should only be allowed where it is clearly in the best interest of all parties involved in or affected by the transaction.

The transfer or sale of a federally conveyed property in no way affects the 810 fund allocation except where the LUHA has

intentionally or negligently converted, rented or sold a property without HUD approval (See 24 CFR 590.31(e)).

1. Use of and Accounting for Proceeds (Program Income).
Proceeds received from a sale must be used by the LUHA in its homesteading program for rehabilitation financing for former federally-owned or locally-owned homesteading properties, to acquire more properties for homesteading, or neighborhood improvements or similar public facilities or services directly benefitting a homestead property. Proceeds received from the sale of a property homesteaded previously, in which the rehabilitation was financed by a Section 312 loan, must be refunded to HUD and applied to the Section 312 debt before being applied to other activities noted previously. Proceeds may not be used to offset administrative costs. The LUHA is required to account for the receipt and expenditure of this program income (not only the initial use, but also reuses of these funds) as long as the LUHA continues to have an approved homesteading program. Only when a LUHA is closed out will it be relieved of its obligation with respect to the accounting for and use of program income.
- D. Reconveyance of Property to HUD, VA or FmHA. HUD is not normally authorized to accept the reconveyance of urban homesteading properties. An exception may be made for HUD properties when it can be clearly demonstrated that the LUHA made its selection based upon erroneous information provided to it by HUD. This is generally limited to the existence of unknown, severe structural damage to a property prior to conveyance. Detection and reconveyance would be expected to take place within 90 days of the transfer date of the property from HUD to the locality.

This exception does not apply for VA and FmHA properties which may not be reconveyed.
- E. Control and Monitoring. When an alternative use is approved which involves continued public ownership, appropriate controls must be imposed by the LUHA to ensure that the alternative use will be for the approved purpose. The Urban Homesteading Coordinator should review the controls and monitor the program to confirm proper implementation. When the alternative use includes sale of the property, appropriate covenants should be placed on the deed to assure implementation of the approved use for a reasonable period of time, e.g., 5 years.
- F. Unauthorized Alternative Use of a Property. If a LUHA takes an action not authorized according to these procedures, repayment to HUD shall be made for either the amount of compensation the LUHA received if a sale or rental occurred, or the amount of Section

6400.1 REV-1

funds spent for the property, as appropriate, pursuant to 24 CFR 590.31(e). If there is an existing Section 312 debt, disposition will be handled on a case by case basis by Headquarters.

An action that would warrant repayment would be, defined as one that is within the LUHA's control. For example, if a homesteading property deteriorates because of a LUHA's inability to find a homesteader due to poor property selection initially or by neglect from the LUHA, then that is within the LUHA's control. If an adequately secured and insured homestead property should be damaged by fire to the extent that condemnation is required, then that is beyond the LUHA's control and repayment would not be required. Proceeds from insurance benefits shall be handled as program income (See paragraph 10-2.C.1).

When repayment is required, the Urban Homesteading Coordinator shall prepare a letter for the Field Office Manager's signature, or designee, requesting repayment and citing circumstances under which the request is made. A copy of the letter requesting repayment must be sent to the RAD for recording a receivable. Repayments shall be made in accordance with Chapter 6, paragraph 6-1, E.

10-3. REQUESTING AND APPROVING ALTERNATIVE USES

- A. LUHAs are to submit the following information to request an alternate property use:
1. the address of the affected property;
 2. an explanation of what steps the LUHA has taken toward homesteading the property;
 3. an explanation of what steps the LUHA has taken to protect and insure the property after receiving ownership of it;
 4. an explanation of why the LUHA considers homesteading infeasible with respect to the property;
 5. a statement of the proposed alternative use and how it is consistent with the coordinated approach toward neighborhood improvement for the urban homesteading area;
 6. the estimated fair market value of the property in its present condition and the estimated net proceeds to be received from the disposition of the property, if any; and

7. a statement that the LUHA is authorized under State and local law to undertake the proposed alternative use.

3/90

10-4

6400.1 REV-1

- B. In reviewing a LUHA's request for alternative use, the Urban Homesteading Coordinator must be sure that:
 1. the LUHA has attempted to homestead the property. This requires demonstrating to HUD that the property is not marketable for homesteading. At a minimum the LUHA must have entered the property in two selection rounds to match homesteaders to the property and been turned down by several potential applicants. In this instance, the LUHA must demonstrate that it has attempted to reach non-priority applicants in addition to the priority applicants before requesting an alternative use for the property. If there is a breach of an existing Homesteader Agreement, the LUHA must demonstrate that it has attempted to find a successor homesteader for the property who can assume the existing rehabilitation loan.
 2. the property cannot be homesteaded because its physical condition is such that homesteading is obviously impossible. This could include severe structural, fire, or termite damage, major vandalism, or other conditions making the property an immediate danger to health and safety. These conditions must have been beyond the LUHA's control. If not, see paragraph 3.a. below.
 3. where demolition is proposed, an approvable alternative use for the vacant land is submitted also in accordance with paragraph 10-2, B. Careful consideration should be given to approving requests for demolition. A LUHA may make a poor property selection initially, or a property may be held in inventory for an extended period, after which time it is so deteriorated and vandalized that costs to repair are prohibitive for homesteaders and there can be no alternative use for the structure, but demolition.
 - a. If demolition is required because the LUHA did not act responsibly to homestead the property after acquisition by securing one or more homesteaders as necessary to comply with Paragraph 5, of the Urban Homesteading Program Participation Agreement (Appendix 4), or by inspecting properties prior to taking title and securing and managing properties after acquisition, the Section 810 account shall be reimbursed pursuant to 24 CFR 590.31(e).
 - b. If demolition is required due to no fault of the LUHA,

i.e., fire, the Urban Homesteading Coordinator shall advise the LUHA to attempt to sell the property and dispose of proceeds in accordance with paragraph 10-2, C.

10-5

3/90

6400.1 REV-1

4. where sale of a property is proposed, it must result in the furtherance of the locality's coordinated approach to neighborhood improvement, and the LUHA is prepared to account for the sales proceeds as program income. The sale or transfer for the purpose of residential reuse is not an approvable option.
- C. If the request is approvable, the Urban Homesteading Coordinator shall prepare a letter to the LUHA for the Field Office Manager's signature stating that the proposed action is authorized and any conditions as noted in paragraph 10-2, E., Control and Monitoring, shall be imposed as a condition of the approval.
- D. If the request is not approvable, the Urban Homesteading Coordinator shall prepare a letter for the Field Office Manager's signature stating the reasons for the disapproval and any further requirements, as applicable, that may be imposed.
- E. A copy of the approval or disapproval letter shall be sent to the Regional Director for CPD and to the Director, Urban Homesteading Program, Rehabilitation Loans and Homesteading Division, Headquarters.

3/90

10-6