U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-0500

OFFICE OF GENERAL COUNSEL

Legal Opinion: CIM-0122
Index Number: 3.275
Subject: Reserve for Replacements

September 12, 2001

Christopher C. O'Dell, Esquire
Moss & O'Dell, P.C.
1675 Larimer Street, Suite 650
Denver, Colorado 80202

Dear Mr. O'Dell:

This letter responds to your August 21, 2001 request concerning the disposition of funds remaining in the Reserve for Replacement (RR) at the time the insured mortgage loan secured by the Kipling Townhouses is refinanced with a mortgage loan not insured by FHA. The provisions of the Regulatory Agreement (RA) executed by HUD and the project owner require that the RR fund account be established and that monthly deposits be made to this account. The RR is funded from project income received by the owner of the project with FHA-insured financing. HUD's position is that, although the loan is FHA-insured, the RR is an asset of the project which is under the control of HUD and, as long as the requirements of the RA have not been violated, would remain with the project until the FHA-insured mortgage loan reaches maturity or is otherwise paid in full. Upon prepayment or maturity of the insured mortgage loan (and termination of the RA), the funds in the RR would not revert to HUD. The funds would remain with the project owner.

Please contact Stuart Malmon at 202-708-0614, ext. 5258, if you have any further questions concerning this matter.

Sincerely,

John J. Daly
Associate General Counsel
for Insured Housing

cc:

Daly	9226	
Potts	9228	
Malmon	9228	
Miller	6160	
chron	9228	
file	9228	(with attachment)

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