

RE: Freedom of Information Act Request
Property Disposition Handbook
4310.5, REV-2, Pertaining to
One to Four Family Properties

This is in response to your Freedom of Information Act (FOIA) request for the Property Disposition Handbook 4310.5, REV-2, pertaining to one to four family properties.

Your FOIA request, including your identity and any information made available, is releasable to the public under subsequent Freedom of Information Act requests. In responding to these requests, the Department does not release personal privacy information such as home address, telephone number or Social Security Number, which is protected from disclosure under Exemption 6.

Your request is granted in part. We are withholding paragraph 3-24A on page 3-26 and paragraph 10-19D on page 10-20. We are withholding these portions under Exemptions 2 and 5. In accordance with Exemption 2, the release of this information would significantly risk circumvention of agency regulations or statutes or impede the effectiveness of an agency's enforcement activities (5 U.S.C. Sec. 552(b)(2)).

These portions of the subject handbook are also exempt from disclosure under Exemption 5 (5 U.S.C. Sec. 552(b)(5)). Exemption 5 protects such information from mandatory disclosure, as part of an agency's deliberative process, to ensure the integrity of agency decisions.

You are advised that the Department's regulations implementing the Freedom of Information Act (24 CFR Sec. 15.61) provide for administrative review by the General Counsel of a denial of a request for a record, provided the request for review is filed within 30 days after issuance of the denial. Should you desire such a review, your request should be mailed to:

U.S. Department of Housing
and Urban Development
ATTN: Jeffrey S. Rock
Freedom of Information Act Appeal
Assistant General Counsel for
Training and Administrative Law
451 Seventh Street, SW, Room 10246
Washington, DC 20410-0500
Telephone: (202) 708-0622

Your request for review should be accompanied by a copy of the initial request, a copy of the written denial and a statement of circumstances, reasons, or arguments advanced in support of disclosure. The envelope should be plainly marked to indicate that it contains a Freedom of Information Act request for review.

In accordance with the Freedom of Information Act, 5 U.S.C. Sec. 552(a)(6)(C), you are advised that John J. Coonts, Director, Office of Insured Single Family Housing, was the official

in which the property is located exceeds six months.

Paragraph 2-27 adds permanent or long-term illness or injury as a qualifying criterion for occupied conveyance and allows illness/injury occupancy for a reasonable time rather than three months.

Paragraph 2-30 A. provides that all tenants approved under occupied conveyance procedures be given a copy of the Notice: Watch Out for Lead-Based Paint Poisoning!

Paragraph 2-35 provides that the Chief Property Officer may not delegate the responsibility for determining fair market rent and notifying the occupant of the rent level to the Real Estate Asset Manager (REAM).

Paragraph 2-35 A. provides that the Field Office must notify the occupant of the rent level at the time the occupant is notified of approval of occupancy under occupied conveyance procedures.

Paragraph 2-35 B. provides that the lease term may not start, nor rent be collected, until title is taken in the Secretary's name.

Paragraph 2-35 C. provides that the Chief Property Officer's responsibility for execution of a lease may not be delegated to the Real Estate Asset Manager (REAM).

Paragraph 2-37 provides that the original, signed lease must be maintained in the property case file.

Paragraph 2-40 establishes waiver procedures relating to the occupied conveyance program.

Appendix 1, (pages 1, 3 and 6), Appendix 5 (page 2), Appendix 6 (page 2) and Appendix 29 have been revised to reflect program changes.

Chapter 3 - Acquisition

Chapter 3 describes the types of acquisition programs and initial processing procedures by which the Department takes possession or acquires properties.

Paragraph 3-10 A. describes initial documentation required upon conveyance.

Paragraph 3-10 B. provides that deeds are to be recorded in the Secretary's name.

Paragraph 3-10 C. describes processing of cases generated from the Single Family Insurance Claims (A43C) Interface.

Paragraph 3-11 A. amends processing requirements of the Section 1013 Program because the Department no longer accepts acquisitions from the Department of Defense.

Paragraph 3-11 B. describes custodial properties and precludes the use of SAMS for payment of costs prior to assignment.

Paragraph 3-11 C. describes acquisition and prompt listing of a property previously secured by a Secretary-Held mortgage.

Paragraph 3-13 B. provides for daily assignment of new acquisitions to an appraiser.

Paragraph 3-14 B. describes REAM requirements to ensure appraiser access within 48 hours.

Paragraph 3-14 C. provides for REAM preparation of an estimate of repairs.

Paragraph 3-14 D. describes a mortgagee's responsibility to take reasonable action to protect and preserve a vacant or abandoned property until its conveyance to HUD.

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Section VIII has been added to provide policy and procedures for preservation and protection (P&P), including Regional P&P Schedules and monitoring.

Paragraph 3-19 O. provides procedures for processing Demolition Notices.

Paragraph 3-20 describes Headquarters' and contractor procedures for review and payment of claims.

Paragraph 3-21 provides for mortgagee claims assistance on the status of claims processing.

Paragraph 3-27 describes procedures for problem resolution of issues related to the conveyance of damaged property.

Paragraph 3-29 clarifies conditions under which there can be no finding of mortgagee neglect.

Paragraph 3-30 describes the use of existing warranties, if appropriate, for properties conveyed damaged.

Chapter 4 - Extensions of Time/Title Evidence/Homeowners and Condominium Fees and Assessments/Reconveyance.

Chapter 4 describes issues which usually arise early in the acquisition process. A new section has been added to describe requirements for processing requests for extensions of time which are the responsibility of Single Family Property Disposition.

Paragraph 4-8 provides for the exclusive use of Form HUD-50012, Mortgagee's Request for Extensions of Time, by the mortgagee and the Department.

Paragraph 4-9 describes time requirements for submission of extension requests.

Paragraph 4-10 describes extension requests commonly processed in Property Disposition.

Paragraph 4-15 requires the use of an Extension Request Log.

Paragraph 4-16 describes valid reasons for extension requests and denials.

Paragraph 4-17 provides general guidance for establishing the initial duration of extension approvals.

Paragraph 4-20 describes the Chief Property Officer's authority to approve or deny the Mortgagee's Request for Extension of Time to submit title evidence.

Paragraph 4-22 describes the use of SAMS to track and monitor extension requests.

Paragraph 4-24 describes procedures for review and approval or denial of title evidence.

Paragraph 4-25 B.1. sets forth requirements for a Circular Letter wherever the Field Office requires additional documentation beyond that customarily required for title approval.

Paragraph 4-27 amends Claims Without Conveyance of Title to reflect discontinuance of the procedure except as requested by the mortgagee or requested by HUD.

Paragraph 4-33 provides for indemnification of purchasers for damage or loss as a result of any tax lien.

Section VII has been added to describe procedures for reconveyance.

Paragraph 4-42 describes reconveyance initiated by the mortgagee.

Paragraph 4-43 describes reconveyance due to title defects.

Paragraph 4-44 E. provides that the Field Office Manager or Director of Regional Housing must sign Quitclaim Deeds and describes the use of a log of reconveyance requests.

Paragraph 4-44 F. provides for two demand letters prior to action to reconvey or offset.

Paragraph 4-44 G. provides the rights of the mortgagee for appeal of HUD's decision to reconvey.

Chapter 5 - Real Estate Taxes

Chapter 5 has been added to describe policy and procedures for processing real estate taxes and/or special assessments. Included are guidelines relative to special properties and circumstances, prepayment restrictions, working with local tax authorities to obtain profile and tax account information, processing delinquent invoices, appealing tax assessments, and maintaining data base records to facilitate monitoring and internal control.

Paragraph 5-3 requires maintenance of a Tax Payment Calendar.

Chapter 6 - Principal Program Approaches

Chapter 6 describes the processing cycle from appraisal to preparation of the disposition program. This includes ordering and analysis of the appraisal, appraisal review, initial pricing, preparation of the environmental compliance record, preparation of the Disposition Program and subsequent reanalysis.

Paragraph 6-12 describes appraisal policy, provides procedures for ordering appraisals, and sets forth prescribed time frames.

Paragraph 6-13 provides policy for establishing the fair market value and initial pricing.

Paragraph 6-14 provides for contents of the appraisal, including a list of repairs.

Paragraph 6-14 F. sets forth procedures for appraisals in revitalization areas.

Paragraph 6-15 provides that appraisers must understand FHA insurance requirements for HUD-owned properties.

Paragraph 6-15 C. provides that the Disposition Program must be timely prepared whether or not the review appraisal is complete.

Paragraph 6-19 describes program priorities for disposition programming.

Paragraph 6-22 A. provides for alternatives for disposition for hard-to-sell properties.

Section XIX, Special Marketing Tools, revises available marketing tools.

Paragraph 6-22 A defines hard-to-sell properties.

Paragraph 6-22 C.3 describes maximum allowable financing and closing costs.

Paragraph 6-22 C.4 excludes prepaids, financing and/or closing costs

from investor purchaser insured loans.

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Paragraph 6-22 C.5 describes the Lease with Option to Purchase program for soft market areas.

Paragraph 6-22 C.9 encourages the prequalification of potential purchasers.

Chapter 7 - Lease and Lease-Option Programs

Chapter 7 describes the variety of lease programs authorized by changes in the regulations and the terms and conditions applicable to each. Collection procedures for the collection of tenant rent and delinquent tenant rent are also provided.

Paragraph 7-12 provides that the authority to sign a lease may not be delegated below the level of the CPO and REAMs are not authorized to sign leases.

Paragraph 7-14 provides that lessees are to be provided with the Notice: Watch Out for Lead-Based Paint Poisoning!

Paragraph 7-16 describes the terms and conditions of occupancy applicable to all lease and lease-option programs unless otherwise specified in a specific program.

Paragraph 7-18 A. discusses the rental rate and the responsibility of the Field Office to determine fair market rent and notify tenants when occupancy is approved.

Paragraph 7-25 provides procedures for occupancy prior to closing or where sales closing is delayed at length.

Paragraph 7-26 provides for lease in areas of high concentrations of properties.

Paragraph 7-27 A. amends the major disaster relief program to reflect changes in the Memorandum of Understanding between the Department and the Federal Emergency Management Administration (FEMA).

Paragraph 7-27 B. establishes procedures to be used in other disasters such as those caused by civil disturbance.

Paragraph 7-29 describes use of the lease-option program in certain circumstances to governmental entities or qualifying nonprofit organizations.

Paragraph 7-30 describes policy governing a tenant's right of first refusal to purchase on a noncompetitive basis prior to listing under

certain circumstances.

Paragraph 7-32 provides for monitoring rent collection by an annual sampling of 10 percent of all leases through direct mail.

Paragraph 7-38 provides for referral of delinquent former tenant accounts to Debt Management Centers.

Appendix 29, Lease, has been revised to add services and equipment to be provided, if any; permit the Department to enter a leased property upon two days' notice; provide for lease termination upon 30-days' notice; establish the right of the Department to terminate the lease when the property will be sold or is dedicated to another use or program; and require that the lessee acknowledge receipt of the Notice: Watch Out for Lead Based Paint!

Appendix 35, Lease With Option to Purchase, has been added to provide for lease-option programs including those with broker participation.

Appendix 69 has been added to offer the Right of First Refusal.

Chapter 8 - Lease and Sale of Properties for the Homeless

Chapter 8 describes existing policy and procedures necessary for implementation of 24 CFR 291, Subpart E, for Lease and Sale of HUD-Acquired Single Family Properties for the Homeless.

Paragraph 8-5 describes mutual administration and management of the Homeless Program by Single Family Property Disposition and Community Planning and Development (CPD).

Paragraph 8-13 requires that Lessees leasing properties constructed prior to 1978 be given a copy of the Notice: Watch Out for Lead-Based Paint!

Paragraph 8-19 describes the redelegation of waiver authority.

Paragraph 8-27 establishes acceptable processing time frames in which a property may be held for consideration in response to a provider's written expression of interest.

Paragraph 8-28 amends the requirement that homeless providers obtain general liability insurance with HUD named as beneficiary, and requires instead that HUD be named as an insured, coinsured, or an additional insured.

Paragraph 8-31 establishes that the Lessee must pay all costs of maintenance and repair.

Paragraph 8-34 describes the determination of the purchase price and provides that the purchase price may not be adjusted to reflect the cost or value of repairs made to the property by the lessee.

Paragraph 8-38 provides that CPD will perform outreach as necessary to advise homeless providers of taxing authorities and tax exemptions or reductions which may be available in the Field Office jurisdiction, and describes circumstances in which providers are not required to maintain a tax escrow account.

Paragraph 8-41 provides that, upon lease termination, properties are to be returned to Property Disposition.

The matrix at the end of Chapter 8 illustrates the responsibilities of Single Family Property Disposition and CPD.

Appendices 77, 78, 79, 80, 81 and 82 have been added for use in the Homeless Program. Paragraph 22 of Appendix 77 and 78 has been amended to describe the purchase price and to preclude adjustments to the sales price as a result of repairs made to the property by the homeless provider. Paragraph 26 has been revised to reflect that lessee was provided with a copy of the Notice: Watch Out for Lead-Based Paint Poisoning!

Chapter 9 - Media Advertising

Chapter 9 sets forth policy and procedures for media advertising.

Paragraph 9-7 establishes procedures for facilitating HUD communications with the public.

Paragraph 9-10 C. describes the functions of the national advertising contractor.

Paragraph 9-18 discusses advertising rules for real estate brokers.

Paragraph 9-19 discusses the Hotline, its purpose, and inclusion of the Hot Line telephone number in advertising.

Chapter 10 - Sales Procedures

The sales programs of the Department, and the specific requirements of each program, are consolidated in this chapter.

Paragraph 10-17 I. provides for the correction of minor errors on sales contracts when it is in the best interest of the Department to do so.

Paragraph 10-18 revises the policy for return of earnest money

deposits to owner-occupants and direct sale purchasers.

Paragraphs 10-19 and 10-20 describe the modified sales procedures.

Paragraph 10-19 H. requires that a decision be made within two working days of the bid opening of whether to accept the offer, with notification to the broker at that time.

Paragraph 10-20 B.1 provides that nonprofit organizations who wish to purchase must be prequalified by CPD.

Paragraph 10-29 provides for sales to displaced persons; sales to tenants under the Right of First Refusal; and sales to salaried employees, their relatives, or HUD contractors.

Chapter 11 - Sales Closings

This chapter consolidates all information related to sales closings.

Paragraph 11-12 permits an initial 15-day extension at no cost to owner-occupant purchasers under certain conditions.

Paragraph 11-15 provides that properties are to be conveyed without defects in title. It also provides for a letter of indemnification of the purchaser against loss as a result of minor title defects which preclude prompt closings.

Paragraph 11-17 B. sets forth comprehensive procedures for review of the HUD-1, Settlement Statement.

Paragraph 11-19 D. sets forth procedures for reconciliation of sales proceeds deposits with the HUD-1, Settlement Statement.

Chapter 12 - Real Estate Asset Managers (REAM) Contracts

Paragraph 12-7 describes the Department's policy for contract management of all acquired properties.

Paragraph 12-8 describes methods of contracting.

Paragraph 12-9 describes key steps in award of REAM contracts.

Paragraph 12-10 describes key issues in administering of REAM contracts.

Paragraph 12-12 describes REAM requirements for removal of imminent hazards.

Paragraph 12-13 describes repairs which may be performed by the REAM

and provides that 25 percent of all repairs performed by the REAM be inspected.

Paragraph 12-14 describes requirements for subcontracting of repairs and provides that the REAM must inspect 100 percent of subcontracted repairs.

Section VI has been added to provide requirements for monitoring the REAM contract.

Paragraph 12-17 E.4. provides that CPOs prepare the HUD-9524, Monthly Inspections of Acquired Properties, by the 20th of each month.

Paragraph 12-17 D. requires sampling of 10 percent of all leases to verify the accuracy of rent collections.

Paragraph 12-17 E. describes the responsibilities of the Realty Specialist/Government Technical Representative.

Chapter 13 - Lead-Based Paint (LBP) Hazards

Chapter 13 describes policy and criteria for compliance with Lead-Based paint regulations.

Paragraph 13-7 provides for initial inspection by the appraiser, REAM or HUD staff.

Paragraph 13-14 provides for advertisement of properties which have not been treated for defective paint surfaces.

Paragraph 13-15 describes the responsibility of brokers for compliance with HUD lead-based paint procedures and provides information which must be included in the Broker's Information Release.

Paragraph 13-16 provides that all purchasers of properties constructed prior to 1978 must be given the Notice: Watch Out for Lead-Based Paint Poisoning!

Paragraph 13-21 provides that all renters of HUD-owned properties constructed prior to 1978 be given a copy of the Notice: Watch Out for Lead-Based Paint Poisoning!

Paragraph 13-25 provides for a revised Lead-Based Paint Addendum to the Sales Contract and describes procedures for processing an accepted offer.

Paragraph 13-26 provides for testing by XRF and laboratory analysis of paint samples.

Appendix 10 provides the Notice: Watch Out for Lead-Based Paint Poisoning!

Appendix 58 provides the revised Addendum to Sales Contract, Lead-Based Paint Health

Chapter 14 - Files and Recordkeeping

Chapter 14 provides policy for administration and maintenance of a system of records for hard-copy and automated record systems.

Paragraph 14-9 B. encourages the viewing of SAMS data base files in lieu of hard copy property case files for case management and analysis and requires that documentation used for input to SAMS be maintained in the permanent case file.

Paragraph 14-10 provides examples for maintenance of subject files.

Paragraph 14-14 provides that original contracts are retained by the Contracting Officer, with copies maintained in PD files.

Chapter 15 - Collections and Deposits

Chapter 15 provides detailed procedures for processing collections deposited to HUD's Lockbox, including collections by Field Offices, closing agents, REAMs, and brokers.

The Chapter 15 exhibit provides post codes by type of collection and party who typically processes the collection.

Chapter 16 - Disbursements

Chapter 16 explains the interrelationship between invoice processing and internal controls applicable to each disbursement and provides procedural guidelines to assist Field Offices in complying with these controls.

Paragraph 16-11 identifies requirements for compliance with procurement regulations.

Paragraph 16-13 describes authorized signatures for disbursements and related vendor file maintenance forms.

Paragraph 16-14 provides for establishment of payee (vendor) files in SAMS.

Paragraph 16-20 and 21 provide for monthly review and annual review and certification by the Field Office Manager of vendor files.

Paragraph 16-22 discusses disbursement (payment) processing, including required forms, signatures, and disbursal requirements.

Paragraph 16-23 describes reasons for the rejection of disbursement requests by the SAMS contractor.

The Chapter 16 exhibit lists accounting post codes by type, and the

party who typically processes the invoices for each type of disbursement.

Chapter 17 - Debt Collection

Chapter 17 describes the responsibility of the Chief Property Officer as the Action Official responsible only for initial debt collection for debts incurred in the normal course of business. Collection procedures are separate from those of debt collection of tenant rent and delinquent tenant rent, as shown in Chapter 7. Single Family Property Disposition is subject to all the policies and procedures for collecting debt incurred in the normal course of business as is shown in HUD Handbook 1900.25 REV 3, Delinquent Debt Collection Handbook.

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Headquarters recognizes that many of the debt collection procedures described in the Debt Collection Handbook are undergoing revision as a result of reorganization, and that there will be changes in debt collection policy and practice. However, the definitions used and the scope of action described in the Debt Collection Handbook are generally applicable to debt collection procedures Departmentwide.

Chapter 18 - Review of Aged Inventory

Chapter 18 establishes a requirement for the annual review of properties which have been in inventory longer than 24 months. Detailed instructions for the review, annotation, and certification of the Aged Active Cases Report are included.

3. Issuances Superseded by HUD Handbook 4310.5 REV-2

Handbook

Handbook 4305.2, Property Disposition Handbook Fiscal Procedures

Housing Notice

H 90-59 Single Family Property Disposition Pricing of Properties dated August 2, 1990

H 90-69 Single Family Claims for Insurance Benefits: Requirements for the Preservation, Protection and Inspection of Insured Properties - Including Mortgagees' Responsibility for Damaged Properties dated September 19, 1990

H 91-32 Procedures for: Monitoring Area Management Brokers/Tax Payment Guarantees dated April 16, 1991

H 91-34 Procedures for Reconveyance and Procedures for Reimbursement to Lenders on Uninsured Cases dated April 25, 1991

H 91-63 Extension of Time Requirements for Single Family Claims for Insurance Benefits dated July 24, 1991

H 91-89 Single Family Property Disposition Program dated November 1, 1991

H 91-91 Lease and Sale of Acquired Single Family Properties for the Homeless - Housing Responsibilities, dated November 7, 1991

H 91-94 Single Family Claims for Insurance Benefits: Changes in Requirements for Preservation and Protection of Insured Properties dated December 5, 1991.

H 92-5 Revision to Notice H 91-91, Lease and Sale of Acquired Single Family Properties for the Homeless and Housing Responsibilities dated January 13, 1992

H 92-10 Failure to Abide by HUD's Earnest Money Policy, dated January 28, 1992

H 92-36 Extension of Notice H 91-34 dated April 13, 1992

H 92-62 Revised Lead-Based Paint Hazard Notice and Disclosure Requirements dated August 11, 1992

H 92-63 Single Family Accounting Management System Internal Controls dated August 12, 1992

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H 92-73 Monitoring Real Estate Asset Managers and Closing Agents dated September 28, 1992

H 92-83 Extension of Notice H 91-91 dated October 26, 1992

H 92-88 Extension of Notice H 92-83 dated November 8, 1993

H 92-99 Requirement to Provide State and Local Tax Information to Providers in the Single Family Homeless Initiative Program and Start of Fiscal Year 1993 Inventory Guidelines by Region dated December 18, 1992

H 93-2 Extension of H 92-10, Failure to Abide by HUD's Earnest Money Policy dated January 13, 1993

H 93-4 Extension of Notice H 92-5 dated January 14, 1993

- H 93-7 Policy and Procedural Guidelines for Paying Taxes through SAMS and the Service Center dated February 26, 1993
- H 93-13 Electronic Data Interchange of Form HUD-27011 and Title Approval Letters dated 3/5/93
- H 93-32 Reinstatement and Extension of Notice H 91-34, Procedures for Reconveyance and Procedures for Reimbursement to Lenders on Uninsured Cases dated April 26, 1993
- H 93-62 Extension of Notice H 92-62 dated August 24, 1993
- H 93-68 Change of Notice Number H 93-62 dated September 14, 1993
- H 93-82 Modified Sales Procedures - Single Family Property Disposition dated October 25, 1993
- H 93-84 Extension of Notice 92-83 dated November 8, 1993
- H 94-7 Reinstatement and Extension of Notice H 92-5 Revision to Notice H 91-91, Lease and Sale of Acquired Single Family Properties for the Homeless - Housing Responsibilities dated February 10, 1994

4. Effective Date:

This change is effective immediately.

5. Filing Instructions:

REMOVE
Handbook 4310.5 REV-1

INSERT
Handbook 4310.5 REV-2

Assistant Secretary for Housing
- Federal Housing Commissioner

U.S. Department of Housing and Urban Development
Washington, DC 20410

MAY 1994

Departmental

Staff:

Internal Use Only

Property Disposition

Handbook One to Four

Family Properties
