CHAPTER 8. CONVEYING VA-OWNED AND FmHA-OWNED ONE- TO FOUR-FAMILY PROPERTIES FOR USE IN APPROVED URBAN HOMESTEADING PROGRAMS

8-1. LISTING OF VA-OWNED AND FmHA-OWNED PROPERTIES FOR POTENTIAL LUHAs

The Urban Homesteading Coordinator shall contact the local FmHA and/or VA office whenever a potential applicant is considering administering an Urban Homesteading Program in an area which may have VA and/or FmHA properties. To facilitate local planning and program development in accordance with the Statute and program requirements under 24 CFR Part 590.9, the VA and/or FmHA shall follow generally the same procedures as HUD in furnishing lists of available one- to four-unit properties within the potential applicant's jurisdiction. (See Chapter 7, paragraph 7-1, A. and B.)

8-2. LISTING OF VA-OWNED AND FmHA-OWNED PROPERTIES AFTER LUHA APPROVAL

A. Upon request of any approved LUHA, the responsible VA and/or FmHA Field Office will make available in writing a list of available single-family properties owned by VA/FmHA within the participating locality.

B. After the initial lists have been furnished, VA/FmHA will continue to give notice to LUHAs of anticipated new acquisitions.

C. If the VA and/or FmHA Field Office is not providing notification of available properties to LUHAs as required, the LUHA will notify the responsible Loan Guaranty Officer in VA or the State Office of the FmHA for assistance. If this request for assistance fails to bring about the desired results, the LUHA shall notify the HUD Urban Homesteading Coordinator.

8-3. PROCEDURES FOR CONVEYING VA-OWNED AND FmHA-OWNED PROPERTIES

A. Procedures Specific to VA-Owned Properties.

The VA will support HUD-approved Local Urban Homesteading Programs as follows:

1. The VA Field Office may provide a LUHA with a right of first option on the properties listed pursuant to paragraph 8-2 A. and B. above and the date by which such option must be exercised (ordinarily, within 30 calendar days of the date the listing is provided). Such option will be deemed to have been exercised if the VA receives by the specified date, written notice under paragraph 8-3, A. 2. of the LUHA's good faith interest in the property. After the option date has passed, the LUHA will be treated as a private purchaser by VA, and the VA will consider offers to purchase from the LUHA along with

any other offers received, awarding the property to the party that VA considers, in its sole discretion, has made the best offer.

2. The LUHA will notify the VA in writing of any property that it has a good faith interest in purchasing. The VA will then notify the LUHA in writing of the maximum price for the property, together with a good Faith estimate of closing costs. Any cash discounts which may be offered by the VA with respect to a particular property are generally available for any Section 810 properties.

3. Upon receipt of notice of VA's agreement to transfer the property to the LUHA, the LUHA will notify the VA in writing within three working days if it wishes to go forward with the purchase at the specified price.

4. In those areas in which VA issues listings to sales brokers by mail, the LUHA should request to be placed on the appropriate mailing list. This will ensure that the LUHA will receive timely notice of any price reductions which would make eligible for purchase any properties that were formerly ineligible because of the price. The LUHA may ask the local VA regional office to provide details concerning any pricing concessions which may be available as part of its sales program.

B. Procedures Specific to FmHA-Owned Properties.

1. In response to the LUHA's initial request for property listings, the FmHA will include a certification of the amount that would be charged against Section 810 funds for each property in accordance with paragraph 8-5. Where reimbursement will be based on FmHA's claim, the certification will include the estimated closing date it has assumed in calculating the amount of its claim.

2. If the LUHA wishes to acquire a property for the amount certified by FmHA, it must give written notice to FmHA of its intent to acquire the property with Section 810 funds. Upon receipt of such notice from a LUHA, FmHA will not seek or accept other offers For the property for 30 calendar days.

3. Standard for Rehabilitation of FmHA Properties. The deed conveying a FmHA property to the LUHA will contain a covenant requiring that the property be rehabilitated to comply with FmHA requirements for decent, safe and sanitary housing and thermal performance (see 7 CFR Part 1955, Section 117(c)(1) and 7 CFR Part 1924 Subpart A, Exhibit D) prior to its residential occupancy. The LUHA shall ensure that the homesteader complies with this covenant prior to residing in the property. A

"decent, safe, and sanitary" housing unit is a structure which meets the requirements of HUD-MPS for existing construction, or if not meeting the requirements of HUD-MPS:

(a) is structurally sound and habitable,

(b) has a potable water supply,

(c) has a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and

(d) meets the FmHA Thermal Performance Standards.

C. Property Management Procedures for VA and FmHA Properties.

1. Concurrently with a LUHA's written notice to VA (see paragraph 8-3, A. 3. above) or FmHA (see paragraph 8-3, .9.2. above), the LUHA will send to the HUD Urban Homesteading Coordinator a Verification of Fund Availability, HUD-40050, certifying to the property's eligibility and amount of estimated costs, including closing costs needed to acquire the property. Also, this form requests the Urban Homesteading Coordinator to verify to VA or FmHA and the LUHA that sufficient funds are available to reimburse VA or FmHA for the property. Upon receipt of the HUD-40050, the Urban Homesteading Coordinator will prepare a HUD-713, Funds Reservation and Contract Authority, to be sent to the RAD to reserve funds for the property as required in Chapter 6, paragraph 6-1, B.

2. Within 15 calendar days after the LUHA's notice to VA (see paragraph 8-3, A. 3.) or 30 calendar days after the LUHA's notice to FmHA (see paragraph 8-3, B.2.), the Urban Homesteading Coordinator will confirm the eligibility of the property for transfer as in paragraph 8-4 below and will certify in writing, enclosing a copy of the RAD-executed HUD-718, to the VA or FmHA and the LUHA that sufficient funds will be available to reimburse VA or FmHA for the property. This notifies VA or FmHA and the LUHA that they can proceed to close on the property. (No closing should take place without the notification.) Any environmental review required for a property will be completed by the VA or FmHA as soon as possible so as to allow the LUHA to acquire the property within the original 30-day period noted in paragraph 4 below.

3. Unless the above actions are completed within the specified working days of the LUHA's notice to VA or FmHA of its desire to go forward with the purchase, the VA or FmHA will proceed

to seek other purchasers for the property.

4. Within 30 calendar days after receipt of the HUD-718, VA or FmHA will convey the property to the LUHA. If so requested by the LUHA this 30-day period my be extended at VA's or FmHA's discretion for a reasonable period of time. After conveyance, the VA or FmHA will send the closing documents to the HUD Field Office, attention Urban Homesteading Coordinator,

5. The Urban Homesteading Coordinator will review the VA/FmHA closing documents, prepare an SF-1034, and the Guideform for Costs Chargeable to Section 810 for VA/FmHA Properties, and package them with a copy of the executed Form HUD-718 for transmittal to RAD. All VA or FmHA closing documents shall have the proper Urban Homesteading number written at the top of the First page (See Chapter 5).

8-4. ELIGIBILITY CRITERIA FOR CONVEYING VA-OWNED AND FmHA-OWNED PROPERTY TO APPROVED URBAN HOMESTEADING PROGRAMS

A. The criteria. The eligibility criteria that apply to HUD-owned properties shall apply to VA and FmHA properties. Upon the receipt of a HUD-40050, Verification of Fund Availability, from the LUHA, the Urban Homesteading Coordinator shall check the eligibility of the property as noted in Chapter 7, paragraph 7-3, A.

B. Transfer of Higher Value Properties. If the value of the property exceeds the limitations stated in Chapter 7, paragraph 7-3, A. 5., the Field Office Manager may authorize on a property-by-property basis transfer of a higher value property from VA or FmHA to the LUHA for the reasons noted in Chapter 7, paragraph 7-3, B.

C. If the LUHA believes the value of the property stated by VA or FmHA is unrealistically high, the LUHA may obtain an independent appraisal and submit it to the VA/FmHA. The LUHA may then request the appropriate VA or FmHA Field Office to reconsider its value. The LUHA will bear the cost of any appraisal.

D. Provision of Local Resources. If prices of properties exceed the section 810 regulatory limit of $25,000 and authorization for a higher level is not granted by the Field Office as noted in B. above and Chapter 7, paragraph 7-3, B., the LUHA may proceed to purchase properties with a combination of funds--Section 810 and other local resources (i.e. CDBG). This can be done by;

1. The CPD Urban homesteading Coordinator performing all fund

control procedures listed in Chapter 6, paragraph 6-1;

2. The LUHA making a check payable to VA or FmHA, in the amount of the difference between what the Field Office has set as a Section 810 limit plus closing costs, and the agreed upon price for the property. This check will be given to VA or FmHA when the closing occurs; and

3. The Urban Homesteading Coordinator forwarding the Standard Form 1034, the VA or FmHA closing documents, and the executed HUD-718 to the RAD so that the VA or FmHA may be reimbursed from Section 810 funds for the balance of the price.

8-5. AMOUNT OF REIMBURSEMENT FOR VA-OWNED AND FmHA-OWNED PROPERTIES

A. The maximum charge against the Section 810 funds for any one property will be the as-is fair market value of the property or the amount of VA's or FmHA's claim, whichever is the lesser. The VA's claim means the sum of the payment to the holder under guaranty, the cost of acquiring the property, and VA's expenses connected with ownership and sale of the property. FmHA's claim means FmHA's gross investment in the property (unpaid mortgage indebtedness and cash acquisition costs) and FmHA's expenses connected with ownership and sale of the property.

In addition, VA/FmHA will be reimbursed for such closing costs and fees customarily charged in similar transactions in the locality if normally charged to the buyer by VA/FmHA, including, but not limited to:

1. cost of recording the deed, in the form normally used by VA or FmHA in the jurisdiction;

2. cost of acceptable title evidence;

3. closing fee; and

4. local transfer taxes. (Property taxes for FmHA only if based on the claim -- see B. below.)

VA shall designate on the first page of its closing documents whether the amount charged the Section 810 account is the fair market value of the property or the amount of claim.

B. HUD will not reimburse VA and/or FmHA or the LUHA for local property taxes (except as may be included by FmHA in its expenses of ownership, if reimbursement is based upon the Agency's claim). Property taxes will be prorated to the date of closing between VA or FmHA and the LUHA. The VA or FmHA will not transfer properties if the Agency is not reimbursed by the LUHA at closing for any prepaid property taxes. The LUHA bears the costs of any property taxes for the period after closing without Section 810 reimbursement.

C. The Urban Homesteading Coordinator is responsible for:

1. being familiar with the various costs associated with the acquisition of VA and FmHA properties, and assuring that such costs are eligible;

2. knowing whether VA or FmHA is charging the Section 810 account for the amount of the claim or the as-is fair market value, whichever is the lesser, for the property; and

3. providing a cost breakdown as a part of the closing statement package to be transmitted to the RAD. (See paragraph 8-5, A. for eligible costs.) This cost breakdown should distinguish between the VA or FmHA claim and the as-is fair market value to be charged to the Section 810 account. (See Appendix 18 for HUD-40075, Costs Chargeable to Section 810 for VA/FmHA Properties.)

a. If the fair market value is charged, the computation should include:

(1) as-is fair market value;

(2) plus breakout of closing costs;

(3) minus tax credit adjustment (See paragraph 8-5, B);

(4) minus amount paid by LUHA (non-Section 810 in addition to the Section 810 funds); and

(5) total to be charged to Section 810.

b. If the claim is charged, the computation should include:

(1) amount of the claim;

(2) plus local property taxes (for FmHA only);*

(3) plus breakout of closing costs;

(4) minus tax credit adjustment (See paragraph 8-5 B.);

(5) minus amount paid by LUHA (non-Section 810 in addition to the Section 810 funds); and

(6) total to be charged to Section 810.

*VA is not reimbursed for property taxes under its claim.

Note: The VA or FmHA may give a credit for taxes at closing in place of the Agency paying its prorated share. Where this happens, the Urban Homesteading Coordinator must make the adjustment also. (See paragraph 8-5 C.3.a.(3) and b(4) above.)