

FIELD OFFICE LETTERHEAD

LETTER TO OWNER TRANSMITTING INFORMATION FOR
TERMINATING AFFORDABILITY RESTRICTIONS

DATE _____

Dear _____ :

This is in response to the Initial Notice of Intent (NOI) to terminate affordability of (Name of Project) which you submitted on _____. You should use the following information as a guide to develop a Plan of Action (POA) to execute your intent. That POA must be submitted to HUD no later than six months after you receive this letter.

(HUD Field Office, include the following sentence if applicable)

However, HUD records show that you have an open audit or other finding which prevents approval of a POA until it is resolved.

A. You must submit evidence that termination of affordability restrictions for this project will not:

1. Materially increase economic hardship for current tenants, and will not, in any event, result in a monthly rental payment by any current tenant that exceeds 30 percent of monthly adjusted income or an increase in the monthly rental payment in any year that exceeds ten percent (whichever is lower); or in the case of a current tenant who already pays more than 30 percent of adjusted gross income for rent, an increase in the monthly rental payment, in any year, which exceeds the Consumer Price Index or ten percent (whichever is lower); or

2. Involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available. This determination must be made without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement;

- B. You must submit evidence that the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect:
1. The availability of decent, safe, and sanitary housing affordable to low- and very low-income families or persons in the area that the housing could reasonably be expected to serve;
 2. The ability of low- and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities;
or
 3. The housing opportunities of minorities in the community within which the housing is located.
- C. You must advise HUD of anticipated changes in the mortgage and/or regulatory agreement, and provide HUD with a description of any planned change in ownership, any relocation help which you plan to provide to tenants, any affordability restrictions you are willing to maintain in the project, and any other information which you consider to be relevant.

HUD will evaluate your POA to be certain that the conditions stated above can be met.

To further assist you in developing your POA, we are appending information available in this office about other comparable affordable housing in your market area, as well as some statistics on minority concentration in the market area and potential impact on minorities, both in your project and in the market area in general.

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- D. You should be sure that your POA reflects the appended information, if applicable, and also contains the following data:
1. A current project rent roll showing incomes and rents for all existing tenants;
 2. Copies of all waiting lists for the project which include family size and incomes of the applicants on the waiting list, or documentation of the projects vacancy rate, if there is no waiting list;

3. Turnover and vacancy rates at the project for the past three years; and
4. Any other information you feel will document your ability to meet the conditions outlined in Paragraphs A. and B. above.

If we cannot approve the POA to terminate affordability restrictions, you may submit a new NOI to extend affordability. Under these provisions, HUD may be able to offer incentives to extend affordability by retaining or selling the project, that may include increased access to residual receipts, an increase in rents, additional project based Section 8 rental assistance, financing of a capital improvement or rehabilitation loan, redirection of interest reduction payment subsidies to a second mortgage, access to a portion of the preservation equity in the project, and/or an increase in the amount of allowable distributions.

Simultaneously with submitting a POA to HUD, you must notify the tenants about the plans by posting a summary of the POA in each affected building. This summary must state that the tenants have 60 days to comment on the POA. You must also give a copy of the POA to any tenant representative(s). The summary must indicate that a copy of the POA is available for inspection and copying, at a reasonable cost during normal business hours from:

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1. The tenant representatives, whose names, addresses and telephone numbers are listed on the summary;
2. The local HUD Field Office (include address); and
3. The on-site office for the project or in the location where rents are collected.

If you know of no tenant representative, this statement must be certified to the Department within a reasonable period after the POA is submitted.

The POA must also be submitted to the officer of the State or local government to whom you have submitted an Initial NOI.

You must post the attached Notice, Information for

Tenants, in each affected building with this letter and include the Attachment, Information about Market Area (see Appendix 4A), behind it.

Sincerely,

Chief, Loan Management Branch

cc: Posting for each affected building
Tenant representative(s)
State and Local Officials

Attachments: 4A, 4B, 4C

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APPENDIX 4A

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INFORMATION ABOUT MARKET AREA

The following information should be used in developing your Plan of Action. Any other information you have concerning your market area or potential minority impact may also be incorporated into the Plan of Action, and documentation of how you arrived at the facts you are using should be attached.

HUD FIELD OFFICE:

1. INSERT INFORMATION FROM EMAS CONCERNING LOW-INCOME HOUSING IN THE AREA INCLUDING OTHER PROJECTS, NUMBER OF UNITS, UNIT SIZE, RENTS, VACANCY RATES, TURNOVER RATES, WAITING LISTS, AND ACCESSIBILITY TO EMPLOYMENT.
2. INSERT INFORMATION RECEIVED FROM VALUATION CONCERNING ALL ITEMS IN 1 ABOVE.
3. INSERT INFORMATION FROM FHEO CONCERNING MINORITY CONCENTRATIONS IN THE AREA AND POTENTIAL IMPACT OF PLANNED CHANGE IN HOUSING USE ON MINORITIES.

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APPENDIX 4B

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INFORMATION FOR TENANTS

The attached information was sent to the owner of _____ in response to a request to prepay the HUD-assisted mortgage or terminate the HUD insurance on this project. This would mean that the apartments would no longer be subject to HUD restrictions which keep rents affordable. We want tenants to know that HUD will be making a decision on this request and would like you to let us know what you think. The owner will let you know when a Plan for the prepayment is submitted and we will welcome your comments on that Plan.

HUD will only allow the prepayment or termination of the mortgage insurance if we determine that no tenants will be involuntarily displaced due to rent increases or that housing which is comparable to yours is available at rents which will be affordable for you. Even if there is comparable housing, however, the owner would have to agree to allow you to remain in your apartment at affordable rents.

If you do move, HUD may be able to help reduce any of your rent payments through the Section 8 program after you move. Therefore, we must be certain the owner will comply with all the provisions stated above. If you think any of the conditions are being violated, please notify us.

If you have any comments, please contact _____
_____ Chief, Loan Management Branch at the HUD Office
below:

HUD Field Office _____

Address _____

City, State, Zip Code: _____

Telephone No. _____

(Loan Management Branch)