

Legal Opinion: **CIS-0094**

Index: 4.500

Subject: Legal Authority of HOC to Delegate to a Private Party
the Authority to Convey HUD properties

July 30, 1999

MEMORANDUM FOR: Lewis M. Nixon, Assistant General Counsel
for the Midwest, 5AC

FROM: John J. Daly, Associate General Counsel
for Insured Housing, CI

Subject: Legal Authority of HOC to Delegate to a Private Party
the Authority to Convey HUD properties

This memorandum responds to your June 24, 1999 inquiry which forwarded a copy of a fax memorandum, dated June 17, 1999, from John C. Thomalla of Stewart Title to John Jensen, Associate Field Counsel in the Illinois State Office. The correspondence asked about the authority of personnel with Intown Management (Intown), one of the Department's Management and Marketing (M&M) contractors, to execute special warranty deeds conveying real properties in the State of Illinois. Pursuant to the terms of the contract executed between HUD and Intown, certain personnel with Intown, as attorneys-in-fact for HUD under the terms of a limited power of attorney executed by the Director of the Atlanta Single Family Homownership Center, execute deeds conveying HUD properties. Mr. Thomalla has questioned these conveyances due to his understanding that the Secretary of HUD can delegate authority to execute deeds conveying real properties only to duly appointed HUD officials and that delegations to non-HUD officials, such as Intown management personnel, are invalid.

Please direct Mr. Thomalla's attention to Section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), the primary statutory source of the Secretary's authority to deal with conveyed properties. After providing that officers appointed by the Secretary may exercise his powers to convey and execute deeds of conveyance in his name without an express delegation of power or power of attorney, the section continues as follows:

Provided, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, **agent**, or employee he may appoint.
(Emphasis added).

Therefore, it is clear that the Secretary's authority to convey and execute deeds may be delegated by him to agents, such as Intown, as well as to HUD officials.

For Mr. Thomalla's information, that authority has been delegated by the Secretary to the Assistant Secretary for Housing-Federal Housing Commissioner by Notice of Consolidated Delegations published in the Federal Register at 54 FR 22033 on May 22, 1989, redelegated to and through Regional Housing Directors and Housing Directors in Field Offices by redelegation published in the Federal Register at 59 FR 62739 on December 6, 1994 and further redelegated through the Deputy Assistant Director for Single Family Housing to the Single Family Homeownership Center (HOC) Directors by redelegation published in the Federal Register at 62 FR 54464 on October 20, 1997. The Atlanta HOC Director has delegated to Intown personnel the power to execute deeds by a duly executed limited power of attorney dated April 20th 1999. Therefore, deeds properly drawn and duly executed and acknowledged by the Intown attorneys-in-fact are valid. Copies of the redelegations are attached.

Please contact Jeff Swartzbaugh at 202 708-0080, ext. 5218, if you have any questions regarding this matter or desire further assistance.

Attachments