

2530 Process

Legal Opinion: GHM-0045

Index: 3.600
Subject: 2530 Process

September 11, 1992

MEMORANDUM FOR: Robert Thomas Richards, Special Assistant for
Resident Initiatives Multifamily Housing
Programs, HM

THROUGH: John J. Daly, Associate General Counsel
Insured Housing and Finance, GH

FROM: David R. Cooper, Assistant General Counsel
Multifamily Mortgage Division, GHM

SUBJECT: Chesapeake Terrace
Washington, D.C.
FHA Project No. 000-42090

This memorandum is in response to your memorandum of August 20, 1992, requesting information regarding the 2530 process and the potential for the cooperative, Chesapeake Terrace Mutual Homes, Inc., of the above-captioned project to repurchase the project.

The facts as presented in your memorandum are that the cooperative owned Chesapeake Terrace located in Washington, D.C. The cooperative defaulted on the mortgage and on August 13, 1992, the Department foreclosed on the project and acquired it. The project consists of 132 units with a vacancy rate of at least 16%. The project is unsubsidized, however 45 low-income individuals or families resided in the project on the date of foreclosure and therefore, those units would be assisted with Section 8. Additionally, there are a few voucher recipients residing in the project. The Field Office estimates that \$1.4 million in repairs are needed, and there are some health and safety issues. Further, the project has not generated sufficient funds to pay the debt service since 1984. The cooperative organization claims that it represents 84% of the units.

As you are working with the cooperative on the possibility of repurchasing the project, you requested that we address the following questions:

(1) Will the present organization be required to disband and reorganize in order to be eligible to purchase the property?

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(2) Will the Board members at the time of the default be

barred from participating in the transaction by our 2530 process? Will this also affect individuals who were Board members at the time of the Foreclosure? If there is a bar will that cover their participation as officers, committee members or owning residents?

In response to the first question, a prospective purchaser of a HUD-owned project, whether it is an entity or an individual, must fill out the 2530 disclosure form. Therefore, whether the prospective purchaser is the cooperative as it existed at the time of the default of the mortgage, or whether the cooperative disbands and forms a new entity, the individuals that were part of the cooperative at the time of default must disclose on the form their participation in the cooperative. The 2530 Committee will then review the disclosure form, consult with the Field Office and decide whether any or all individuals may participate in the purchase of the project. If the Committee turns down the cooperative or any individual, they may ask for a reconsideration which includes fact finding by a Hearing Officer, with the Committee making the final decision. See 24 CFR Part 200 Subpart H.

In response to the second group of questions, the Board members are not barred from participating in the transaction by the 2530 process. The 2530 process does not "bar" individuals or entities from participation. The process requires that the disclosure form be completed so that the Committee may make a decision as to whether an individual or entity may be allowed to participate in a particular transaction.

For further information concerning the 2530 process, you should contact James Anderson, Acting Director, Participation & Compliance Division or Michael Noonan, Attorney, Inspector General and Administrative Proceedings Division, Office of General Counsel.

However, a cooperative or individual can be suspended or debarred pursuant to 24 CFR Part 24, Government Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace (Grants). Such a suspension or debarment would exclude that individual or cooperative from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Such a debarment or suspension of a participant in a program would be governmentwide.

For further information concerning debarment and suspension, you may also contact Michael Noonan.

If you have any questions regarding this memorandum, please contact Gayle E. Bohling at 708-4107.