

§ 245.115

§ 245.115 Protected activities.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct the following activities related to the establishment or operation of a tenant organization:

(1) Distributing leaflets in lobby areas;

(2) Placing leaflets at or under tenants' doors;

(3) Distributing leaflets in common areas;

(4) Initiating contact with tenants;

(5) Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;

(6) Posting information on bulletin boards;

(7) Assisting tenants to participate in tenant organization activities;

(8) Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues; and

(9) Formulating responses to owner's requests for:

(i) Rent increases;

(ii) Partial payment of claims;

(iii) The conversion from project-based paid utilities to tenant-paid utilities;

(iv) A reduction in tenant utility allowances;

(v) Converting residential units to non-residential use, cooperative housing, or condominiums;

(vi) Major capital additions; and

(vii) Prepayment of loans.

(b) In addition to the activities listed in paragraph (a) of this section, owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct other reasonable activities related to the establishment or operation of a tenant organization.

(c) Owners of multifamily housing projects and their agents shall not re-

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quire tenants and tenant organizers to obtain prior permission before engaging in the activities permitted under paragraphs (a) and (b) of this section.

§ 245.120 Meeting space.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:

(1) Tenants or a tenant organization and used for activities related to the operation of the tenant organization; or

(2) Tenants seeking to establish a tenant organization or collectively address issues related to their living environment.

(b) Tenant and tenant organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the complex has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

(c) *Fees.* An owner of a multifamily housing project covered under § 245.10 may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. An owner may waive this fee.

§ 245.125 Tenant organizers.

(a) A tenant organizer is a tenant or non-tenant who assists tenants in establishing and operating a tenant organization, and who is not an employee or representative of current or prospective owners, managers, or their agents.

(b) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenant organizers to assist tenants in establishing and operating tenant organizations.

(c) *Non-tenant tenant organizers.* (1) If a multifamily housing project covered

under §245.10 has a consistently enforced, written policy against canvassing, then a non-tenant organizer must be accompanied by a tenant while on the property of the multifamily housing project, except in the case of recipients of HUD Outreach and Assistance Training Grants (“OTAG”) or other direct HUD grants designed to enable recipients to provide education and outreach to tenants concerning HUD’s mark-to-market program (see 24 CFR parts 401 and 402), who are conducting eligible activities as defined in the applicable Notice of Funding Availability for the grant or other effective grant document.

(2) If a multifamily housing project covered under §245.10 has a written policy favoring canvassing, any non-tenant organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

§245.130 Tenants’ rights not to be canvassed.

A tenant has the right not to be canvassed against his or her wishes regarding participation in a tenant organization.

§245.135 Enforcement.

(a) Owners of housing identified in §245.10, and their agents, as well as any principals thereof (as defined in 24 CFR 24.105), who violate any provision of this subpart so as to interfere with the organizational and participatory rights of tenants, may be liable for sanctions under 24 CFR part 24. Such sanctions may include:

(1) Debarment. A person who is debarred is prohibited from future participation in Federal programs for a period of time. The specific rules and regulations relating to debarment are found at 24 CFR part 24, subpart C.

(2) Suspension. Suspension is a temporary action with the same effect as debarment, to be taken when there is adequate evidence that a cause for debarment may exist and immediate action is needed to protect the public interest. The specific rules and regula-

tions relating to suspension are found at 24 CFR part 24, subpart D.

(3) Limited Denial of Participation. An LDP generally excludes a person from future participation in the Federal program under which the cause arose. The duration of an LDP is generally up to 12 months. The specific rules and regulations relating to LDPs are found at 24 CFR subpart G.

(b) These sanctions may also apply to affiliates (as defined in 24 CFR part 24) of these persons or entities.

(c) The procedures in 24 CFR part 24 shall apply to actions under this subpart.

Subpart C—Efforts To Obtain Assistance

§ 245.205 Efforts to obtain assistance.

(a) Mortgagors subject to the requirements of this subpart shall not interfere with the efforts of tenants to obtain rent subsidies or other public assistance.

(b) A mortgagor subject to the requirements of this subpart who is a party to a rent supplement contract under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), a rental assistance payments contract under part 236, subpart D, of this chapter, or a Housing Assistance Payments Contract under 24 CFR part 886 shall not refuse to make assistance under such contract available to an existing tenant who is eligible therefor, provided that sufficient contract and budget authority and contract units are available under the contract. However, this provision shall not be deemed to require the mortgagor to give priority in the allocation of any such available assistance to an existing tenant instead of an eligible applicant on the mortgagor’s waiting list or otherwise to supersede tenant selection procedures which are not otherwise inconsistent with applicable program regulation or instructions.

(c) Subject to the provisions of any contract made in connection with the purchase of a multifamily housing project owned by the Secretary, this section shall not be deemed to require a mortgagor subject to the requirement of this subpart to enter into a Housing Assistance Payments Contract