

§ 248.221

(1) Describe the reasons for withholding approval, including prolonged delay by the owner in submitting a revised plan of action;

(2) Describe the actions that could be taken to meet the criteria for approval; and

(3) Afford the owner a reasonable opportunity to revise the plan of action and seek approval.

§ 248.221 Approval of a plan of action that involves termination of low income affordability restrictions.

The Commissioner may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(a) Implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in: (1) A monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent, whichever is lower, or (2) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent, whichever is lower) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available, determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement. Notwithstanding this limitation, the Commissioner may provide housing assistance to tenants if such assistance is not essential to the Commissioner's determination that the requirements of this paragraph have been met. The owner will agree to execute and allow the recordation of use agreements, where such agreements are necessary to safeguard current tenants against such adverse effects. Such use agreements will include a requirement that the owner comply with those provisions of part 247 of this chapter which relate to evictions; and

(b)(1) The supply of vacant, comparable housing is sufficient to ensure

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that the prepayment will not materially affect—

(i) The availability of decent, safe and sanitary housing affordable to low-income and very low income families in the area that the housing could reasonably be expected to serve;

(ii) The ability of low-income and very low income families to find decent, safe and sanitary housing near employment opportunities; or

(iii) The housing opportunities of minorities in the community within which the housing is located; or

(2) The plan of action has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction in which the housing is located as being in accordance with a State strategy approved by the Commissioner under § 248.223 of this part.

(c) There are no open audit findings, open findings of noncompliance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); the Fair Housing Act (42 U.S.C. 3601-3619); Executive Order 11063 (3 CFR 1959-1963 comp., p. 652); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and all regulations promulgated under such statutes and authorities (including, but not limited to, 24 CFR part 100), or outstanding violations of the regulatory agreement.

(d) Any plan of action approved under this section shall specify actions that the Commissioner and the owner shall take to ensure that tenants displaced as a result of the termination of low income affordability restrictions are re-located to affordable housing.

[55 FR 38952, Sept. 21, 1990. Redesignated and amended at 57 FR 12041, 12060, Apr. 8, 1992]

§ 248.223 Alternative State strategy.

(a) The Commissioner may approve a State strategy providing for State approval of plans of action that involve termination of low income affordability restrictions only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) Current tenants will not be involuntarily displaced (except for good cause);

(2) Housing opportunities for minorities will not be adversely affected in