

### Subpart D—Program Administration

#### § 906.23 Protections available to non-purchasing public housing residents.

(a) If a public housing resident does not exercise the right of first refusal under § 906.13, and the PHA determines to move the tenant for the purpose of transferring possession of the unit, the PHA must provide the notice stated in this section 90 days before the date the resident is displaced, and may not displace the resident, except as stated in paragraph (a)(1) of this section, for the full 90-day period. The PHA:

(1) Must notify the resident residing in the unit 90 days prior to the displacement date, except in cases of imminent threat to health or safety, that:

(i) The public housing unit will be sold;

(ii) The transfer of possession of the unit will not occur until the resident is relocated; and

(iii) Each resident displaced by such action will be offered comparable housing (as defined in paragraph (b) of this section);

(2) Must provide for the payment of the actual costs and reasonable relocation expenses of the resident to be displaced;

(3) Must ensure that the resident is offered comparable housing under paragraph (a)(1)(iii) of this section;

(4) Must provide counseling for displaced residents regarding their rights to comparable housing, including their rights under the Fair Housing Act to choice of a unit on a nondiscriminatory basis, without regard to race, color, religion, national origin, disability, age, sex, or familial status; and

(5) Must not transfer possession of the unit until the resident is relocated.

(b) For purposes of this section, the term “comparable housing” means housing:

(1) That meets housing quality standards;

(2) That is located in an area that is generally not less desirable than the displaced resident’s original development; and

(3) Which may include:

(i) Tenant-based assistance (tenant-based assistance must only be provided

upon the relocation of the resident to the comparable housing);

(ii) Project-based assistance; or

(iii) Occupancy in a unit owned, operated, or assisted by the PHA at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacating.

#### § 906.24 Protections available to non-purchasing residents of housing other than public housing.

Residents of non-public housing that would be displaced by a homeownership program are eligible for assistance under the Uniform Relocation Act and part 42 of this title. For purposes of this part, a family that was over-income (*i.e.*, an individual or family that is not a low-income family) at the time of initial occupancy of public housing and was admitted in accordance with section 3(a)(5) of the 1937 Act, is treated as a non-purchasing resident of non-public housing.

#### § 906.25 Ownership interests that may be conveyed to a purchaser.

A homeownership program may provide for sale to the purchasing family of any ownership interest that the PHA considers appropriate under the homeownership program, including but not limited to:

(a) Ownership in fee simple;

(b) A condominium interest;

(c) An interest in a limited dividend cooperative;

(d) A shared appreciation interest with a PHA providing financing; or

(e) A leasehold under a bona fide lease-purchase arrangement.

#### § 906.27 Limitations applicable to net proceeds on the sale of a property acquired through a homeownership program.

(a) Where the family has owned a unit under this part, the following rules apply:

(1) In this section, the term *gain from appreciation* means the financial gain on resale attributable solely to the home’s appreciation in value over time, and not attributable to government-provided assistance or any below-market financing provided under § 906.29.

(2) In this section, the term *net proceeds* means the financial gain on resale received by the seller after satisfying all amounts owing under mortgages, paying closing costs, and receiving an amount equal to the down payment (made from the seller's own funds) and principal payments on the mortgage(s).

(3) A PHA must have a policy that provides for the recapture of net proceeds in an amount that the PHA considers appropriate under the guidelines in this section.

(4) A PHA must have a policy that provides the recapture of the following amounts, if a family resells a homeownership unit it purchased under this part during the 5-year period beginning upon purchase of the dwelling unit:

(i) All or a portion of the gain from appreciation; and

(ii) All or a portion of the assistance provided (which includes below-market financing, but which does not include Section 8(y) assistance used for mortgage payments under this part) under the homeownership program to the family to the extent there are net proceeds, considering the factors the PHA establishes under paragraphs (b)(1)-(7) of this section.

(b) The PHA's program under this part may provide for consideration of any factors the PHA considers appropriate in determining how much of the gain from appreciation and assistance to recapture, including but not limited to the following:

(1) The aggregate amount of assistance provided under the homeownership program to the family;

(2) The contribution of equity by the purchasing family;

(3) The period of time elapsed between purchase by the homebuyer under the homeownership program and resale by the homebuyer;

(4) The reason for resale;

(5) Any improvements made by the family purchasing under the homeownership program;

(6) Any appreciation in the value of the property; and

(7) Any other factors that the PHA considers appropriate in making the recapture determination under this section.

(c) After the expiration of the 5-year period in paragraph (a)(4) of this section, the PHA must recapture all or a portion of the assistance provided under the homeownership program to the family to the extent there are net proceeds.

(d) The PHA must enforce its recapture policy through an appropriate form of title restriction.

**§ 906.29 Below-Market sales and financing.**

A homeownership plan may provide for below-market purchase prices or below-market financing to enable below-market purchases, or a combination of the two. Discounted purchase prices may be determined on a unit-by-unit basis, based on the particular purchaser's ability to pay, or may be determined by any other fair and reasonable method (e.g., uniform prices for a group of comparable dwellings, within a range of affordability by potential purchases). Below-market financing may include any lawful type of public or private financing, including but not limited to purchase-money mortgages, non-cash second mortgages, promissory notes, guarantees of mortgage loans from other lenders, shared equity, or lease-purchase arrangements.

**§ 906.31 Requirements applicable to net proceeds resulting from sale.**

(a) *PHA use of net proceeds.* The PHA must use any net proceeds of any sales under a homeownership program remaining after payment of all costs of the sale for purposes relating to low-income housing and in accordance with its PHA plan.

(b) *PRE use of resale net proceeds.* The PHA may require the PRE to return the net proceeds from the resale of the units to the PHA. If the PHA permits the PRE to retain the net proceeds, the PRE must use these proceeds for low-income housing purposes.

(c) *Transfer of unsold unit to PHA.* In a situation where the PRE fails to sell a unit to an eligible family within 5 years, and the provision of § 906.19(d) requiring that the unit be transferred to the PHA applies:

(1) If the unit has not been operated by the PRE as a public housing unit at any time during the 5-year period, the