

## Federal Housing Finance Board

## §911.8

### §911.7 Availability of unpublished information by testimony.

(a) *Scope.* (1) The scope of permissible testimony is limited to that set forth in the written authorization granted by the Finance Board. The Finance Board may act to ensure that the scope of testimony provided is consistent with the written authorization.

(2) A party to the matter at issue that did not join in a request for unpublished information who wishes to question a witness beyond the authorized scope must request expanded authorization under this part. The Finance Board will attempt to render decisions on such requests in an expedited manner.

(3) The Finance Board generally will not authorize a current employee or agent to provide expert or opinion testimony for a private party.

(b) *Manner in which testimony is given.*

(1) The Finance Board ordinarily will make the authorized testimony of a former or current employee or agent available only through written interrogatories or deposition. The Finance Board will not authorize testimony at a trial or hearing unless the requester shows that properly developed deposition testimony could not be used or would be inadequate at the trial or hearing.

(2) If the Finance Board has authorized testimony in connection with a legal proceeding, the requester must cause a subpoena to be served on the employee in accordance with applicable rules of procedure, with a copy by registered or certified mail to the Office of General Counsel.

(3) If the authorized testimony is through deposition, the deposition ordinarily will take place at the Finance Board's offices at a time that will avoid substantial interference with the performance of the employee's official duties.

(4) The requester is responsible for all costs associated with an employee's appearance, including provision of a copy of a transcript of the deposition at the request of the Office of General Counsel. The person whose deposition was transcribed does not waive his or her right to review the transcript and note errors.

(c) *Restrictions on use and disclosure.* The Finance Board may condition its authorization of deposition testimony on an agreement of the parties to appropriate limitations, such as an agreement to keep the transcript of the testimony under seal or to make the transcript available only to the parties, the court or other body, or the jury. Upon request made pursuant to this part or on its own initiative, the Finance Board may authorize use of a deposition transcript in another legal proceeding or non-adversarial matter.

(d) *Responsibility of litigants.* If the testimony is disclosed in connection with a legal proceeding, the requester is responsible for:

(1) Promptly notifying all other parties to the legal proceeding of the disclosure, and, after entry of a protective order, providing copies of the testimony to the other parties who are signatories and subject to the protective order; and

(2) At the conclusion of the legal proceeding, retrieving the testimony from the court or other body's file as soon as it is no longer required and certifying to the Finance Board that every party covered by the protective order has destroyed the unpublished information.

### §911.8 Availability of unpublished information by document.

(a) *Scope.* The scope of permissible document disclosure is limited to that set forth in the written authorization granted by the Finance Board. The Finance Board may act to ensure that the scope of documents provided is consistent with the written authorization.

(b) *Restrictions on use and disclosure.* The Finance Board may condition a decision to disclose unpublished information by document on entry of a protective order satisfactory to the Finance Board by the court or other body presiding in a legal proceeding or, in non-adversarial matters, on a written agreement of confidentiality that limits access of third parties to the unpublished information. In a legal proceeding in which a protective order already has been entered, the Finance