

**§ 906.9 Title restrictions and encumbrances on properties sold under a homeownership program.**

(a) If the property is subject to indebtedness under the Annual Contributions Contract (ACC), HUD will continue to make any debt service contributions for which it is obligated under the ACC, and the property sold will not be subject to the encumbrance of that indebtedness.

(b) Upon sale of a public housing unit to a public housing tenant or eligible family, or to a PRE operating the units as non-public housing, in accordance with the HUD-approved homeownership program, HUD will execute a release of the title restrictions prescribed by the ACC. Because the property will no longer be subject to the ACC after sale, it will cease to be eligible for public housing Operating Fund or Capital Fund payments.

**Subpart C—Purchaser Requirements**

**§ 906.11 Eligible purchasers.**

Entities that purchase units from the PHA for resale to low-income families (purchase and resale entities or PREs) and low-income families are eligible to purchase properties made available for sale under a PHA homeownership program.

**§ 906.13 Right of first refusal.**

(a) In selling a public housing unit under a homeownership program, the PHA or PRE must initially offer the unit to the resident occupying the unit, if any, notwithstanding the requirements of §§ 906.15(a) and 906.15(c).

(b) This program does not require the PHA, when selling a unit that is a non-public housing unit, to offer the unit for sale first to the current resident of the unit.

**§ 906.15 Requirements applicable to a family purchasing a property under a homeownership program.**

(a) *Low-income requirement.* Except in the case of a PHA's offer of first refusal to a resident occupying the unit under § 906.13, a family purchasing a property under a PHA homeownership program must be a low-income family, as defined in section 3 of the 1937 Act (42

U.S.C. 1437a), at the time the contract to purchase the property is executed.

(b) *Principal residence requirement.* The dwelling unit sold to an eligible family must be used as the principal residence of the family.

(c) *Financial capacity requirement.* Eligibility must be limited to families who are capable of assuming the financial obligations of homeownership, under minimum income standards for affordability, taking into account the unavailability of public housing operating subsidies and modernization funds after conveyance of the property by the PHA. A homeownership program may, however, take account of any available subsidy from other sources. Under this affordability standard, an applicant must meet the following requirements:

(1) *Cost/income ratio.* On an average monthly estimate, the amount of the applicant's payments for mortgage principal and interest, plus insurance, real estate taxes, utilities, maintenance, and other regularly recurring homeownership costs (such as condominium, cooperative, or other homeownership association fees) will not exceed the sum of:

(i) 35 percent of the applicant's adjusted income as defined in 24 CFR part 913; and

(ii) Any subsidy that will be available for such payments;

(2) *Down payment requirement.* Each family purchasing housing under a homeownership program must provide a down payment in connection with any loan for acquisition of the housing, in an amount determined by the PHA or PRE, in accordance with an approved homeownership program. Except as provided in paragraph (c)(3) of this section, the PHA or PRE must permit the family to use grant amounts, gifts from relatives, contributions from private sources, and other similar amounts in making the down payment;

(3) The family must use its own resources other than grants, gifts, contributions, or similar amounts, to contribute an amount of the down payment that is not less than one percent of the purchase price of the housing. The PHA or PRE must maintain records that are verifiable by HUD

## § 906.17

## 24 CFR Ch. IX (4-1-04 Edition)

through audits regarding the source of this one percent contribution.

(d) *Other requirements established by the PHA.* A PHA may establish requirements or limitations for families to purchase housing under a homeownership program, including but not limited to requirements or limitations regarding:

- (1) Employment or participation in employment counseling or training activities;
- (2) Criminal activity;
- (3) Participation in homeownership counseling programs; and
- (4) Evidence of regular income.

### § 906.17 PHA handling of homeownership applications.

Families who are interested in purchasing a unit must submit applications to the PHA or PRE for that specific purpose, and those applications must be handled separately from applications for other PHA programs. Application for homeownership must not affect an applicant's place on any other PHA waiting list for rental units.

### § 906.19 Requirements applicable to a purchase and resale entity (PRE).

(a) *In general.* In the case of a purchase of units for resale to low-income families by a PRE, the PHA must have an approved homeownership program that describes the use of a PRE to sell the units to low-income families within 5 years from the date of the PRE's acquisition of the units.

(b) *PRE requirements.* The PHA must demonstrate in its homeownership program that the PRE has the necessary legal capacity and administrative capability to carry out its responsibilities under the program. The PHA's homeownership program also must contain a written agreement (not required to be submitted as part of the homeownership plan) that specifies the respective rights and obligations of the PHA and the PRE, and which includes:

- (1) Assurances that the PRE will comply with all provisions of the HUD-approved homeownership program;
- (2) Assurances that the PRE will be subject to a title restriction providing that the property must be resold or otherwise transferred only by conveyance of individual dwellings to eligible

families, in accordance with the HUD-approved homeownership program, or by reconveyance to the PHA, and that the property will not be encumbered by the PRE without the written consent of the PHA;

(3) Protection against fraud or misuse of funds or other property on the part of the PRE, its employees, and agents;

(4) Assurances that the resale proceeds will be used only for the purposes specified by the HUD-approved homeownership program;

(5) Limitation of the PRE's administrative and overhead costs, and of any compensation or profit that may be realized by the PRE, to amounts that are reasonable in relation to its responsibilities and risks;

(6) Accountability to the PHA and residents for the recordkeeping, reporting, and audit requirements of § 906.33;

(7) Assurances that the PRE will administer its responsibilities under the plan on a nondiscriminatory basis, in accordance with the Fair Housing Act, its implementing regulations, and other applicable civil rights statutes and authorities, including the authorities cited in § 5.105(a) of this title; and

(8) Adequate legal remedies for the PHA and residents, in the event of the PRE's failure to perform in accordance with the agreement.

(c) *Sale to low-income families.* The requirement for a PRE to sell units under a homeownership program only to low-income families must be recorded as a deed restriction at the time of purchase by the PRE.

(d) *Resale within five years.* A PRE must agree that, with respect to any units it acquires under a homeownership program under this part, it will transfer ownership to the PHA if the PRE fails to resell the unit to a low-income family within 5 years of the PRE's acquisition of the unit.

## 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