

## § 906.27

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.

## 24 CFR Ch. IX (4–1–10 Edition)

(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.