

§ 1710.16

24 CFR Ch. X (4-1-10 Edition)

Title: _____

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

(2) This exemption will become effective upon issuance of an Exemption Order by the Secretary.

(d) *Annual Report.* (1) By January 31 of each year the developer will send a report to the Secretary listing each site and its location available for a sale pursuant to the exemption during the preceding year and indicate the number of lot sales made in each site. The report will describe any changes in the information provided in the Request for the Multiple Site Subdivision Exemption or contain a statement that there are no changes.

(2) The Annual Report must be accompanied by a filing fee of \$100.

(3) The Annual Report must be signed and dated by the developer, attesting to its completeness and accuracy.

(4) Failure to submit the Annual Report within ten days after the receipt of notice from the Secretary will automatically terminate eligibility for the exemption as of the Report due date.

(e) *Termination.* If, subsequent to the issuance of an Exemption Order, the Secretary has reasonable grounds to believe that exemption from the registration requirements in the particular case is not in the public interest, the Secretary may, after issuing a notice and giving the respondent an opportunity to request a hearing within fifteen days of receipt of the notice, terminate the exemption order. The basis for issuing a notice may be apparent omissions or misrepresentations in the documents submitted to the Secretary, the conduct of the developer or agent, such as unlawful conduct or insolvency, or adverse information about the real estate that should be disclosed to purchasers. Proceedings will be governed by 24 CFR 1720.238.

[54 FR 40866, Oct. 4, 1989]

§ 1710.16 Regulatory exemption—determination required.

(a) *General.* The Secretary may exempt from the registration requirements of the Act any subdivision or lots in a subdivision by issuing an order in writing if it is determined that registration is not necessary in the public interest and for the protection of purchasers on the basis of the small amount or limited character of the offering and the requirements contained in paragraph (b) of this section.

(b) *Eligibility requirements.* An exemption order may be issued at the discretion of the Secretary on the basis of the small amount or limited character of the offering if the following requirements are met:

(1) The subdivision or sales substantially meet the requirements of one of the exemptions available under this chapter.

(2) Each contract—

(i) Specifies the developer's and purchaser's responsibilities for providing and maintaining roads, water and sewer facilities and any existing or promised amenities;

(ii) Contains a good faith estimate of the year in which the roads, water and sewer facilities and promised amenities will be completed;

(iii) Contains a non-waivable provision giving the purchaser the opportunity to revoke the contract until at least midnight of the seventh calendar day following the date the purchaser signed the contract. If the purchaser is entitled to a longer revocation period by operation of State law, that period becomes the Federal revocation period and the contract must reflect the requirements of the longer period.

(iv) Contains a provision that obligates the developer to deliver to the purchaser within 180 days of the date the purchaser signed the sales contract, a warranty deed, or its equivalent under local law, which at the time of delivery is free from any monetary liens or encumbrances.

(3) The purchaser or purchaser's spouse makes a personal on-the-lot inspection of the lot to be purchased before signing a contract.

(4) The developer files a request for an exemption order and supporting documentation in accordance with

Office of Asst. Sec. for Housing, HUD

§ 1710.17

paragraphs (c) and (d) of this section and submits a filing fee of \$500.00 in accordance with §1710.35(a) of this part. This fee is not refundable.

(c) Request. The request for an Exemption Order must be in the following format:

REQUEST FOR EXEMPTION ORDER

Subdivision _____
Location (including county) _____
Developer _____
Address _____
Authorized Agent or President of Developer _____
Address _____
Number of Lots Subject to Exemption Request _____
Description of Lots (list lot and block number or other identifying designation) _____

I affirm that I am the developer or owner of the property described above or will be the developer or owner at the time the lots are offered for sale to the public, or that I am the agent authorized by the developer or owner to complete this statement.

I further affirm that the statements contained in all documents submitted with the request for an exemption order are true and complete.

(Date) _____

(Signature of Developer, Owner or Authorized Agent) _____

(Title) _____

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (83 Stat. 598, 15 U.S.C. 1717 as amended) provides: "any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than \$10,000.00 or imprisoned not more than five years, or both."

(d) Supporting documentation. A request for an exemption order must be accompanied by the following documentation:

- (1) A plat of the entire subdivision with the lots subject to the exemption request delineated thereon.
(2) A copy of the contract to be used.
(3) A clear and specific statement detailing how the proposed sales of lots subject to the exemption request substantially complies with one of the available exemption provisions.
(4) A description of the method by which the lots have been and will be promoted and to which population cen-

ters the promotion has been and will be directed.

(e) The sale must also comply with the anti-fraud provisions of §1710.4 (b) and (c) of this part.

(f) Termination. If, subsequent to the issuance of an exemption order, the Secretary has reasonable grounds to believe that exemption from the registration requirements in the particular case is not in the public interest, the Secretary may, after issuing a notice and giving the respondent an opportunity to request a hearing within fifteen days of receipt of the notice, terminate the exemption order. The basis for issuing a notice may be apparent omissions or misrepresentations in the documents submitted to the Secretary, the conduct of the developer or agent, such as unlawful conduct or insolvency, or adverse information about the real estate that should be disclosed to purchasers. Proceedings will be governed by § 1720.238.

[45 FR 40479, June 13, 1980, as amended at 49 FR 31370, 31373, Aug. 6, 1984]

§ 1710.17 Advisory opinion.

(a) General. A developer may request an opinion from the Secretary as to whether an offering qualifies for an exemption or is subject to the jurisdiction of the Act.

(b) Requirements. All requests for Advisory Opinions must be accompanied by the following:

- (1) A \$500.00 filing fee submitted in accordance with §1710.35(a). This fee is not refundable.
(2) A comprehensive description of the conditions and operations of the offering. There is no prescribed format for submitting this information, but the developer should at least cite the applicable statutory or regulatory basis for the exemption or lack of jurisdiction and thoroughly explain how the offering either satisfies the requirements for exemption or falls outside the purview of the Act.
(3) An affirmation as shown below:

Developer's Affirmation

Name of Subdivision _____
Location (Including County and State) _____
Name of Developer _____
Address of Developer _____
Name of Agent _____
Address of Agent _____