

sanitary housing to be provided in market areas where conventional rents are not sufficient to cover necessary operating, maintenance, and reserve costs. Basic rents may be allowed to exceed comparable rents for conventional units, but in no case may the rent exceed 150% of the comparable rent for conventional unit rent level.

(3) In meeting the Agency objective of economical construction, operation and maintenance, housing proposals must:

(i) Contain costs without jeopardizing the quality and marketability of the housing;

(ii) Employ life-cycle cost analyses acceptable to the Agency to determine the types of materials which will reduce overall costs by lowering operation and maintenance costs, even though their initial costs may be higher; and

(iii) Provide assurances that costs will be reduced when the Agency determines that housing costs are not economical. If assurances cannot be provided, funding may be withdrawn.

(4) The housing proposal will give maximum consideration to energy conservation measures and practices.

(d) *Accessibility.* All housing will meet the following accessibility requirements.

(1) For new construction of MFH, at least 5 percent of the units (but not less than one) must be constructed as fully accessible units to persons with disabilities. The Uniform Federal Accessibility Standards (UFAS) will be followed. Individual copies of these standards are available from the Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004-1111, Telephone: (202) 272-0080, TTY: (202) 272-0082, e-mail address: info@access-board.gov. When calculating how many accessible units are required, always round up to the next whole number to ensure the 5 percent requirement is met.

(2) For existing properties that do not have fully accessible units, the 5 percent requirement will apply when making substantial alterations as defined by UFAS. The UFAS defines substantial alteration as "alteration to any building or facility is to be consid-

ered substantial if the total cost for a twelve month period amounts to 50 percent or more of the full and fair cash value of the building * * *" UFAS further defines full and fair cash value as "the assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation, or the replacement cost, or the fair market value." The 5 percent rule will also apply to repair or renovation work on a single unit. For instance, if a unit is damaged by fire and extensive repair is necessary, to the extent possible the unit is to be converted to a fully accessible unit.

(3) The variety of bedroom quantities of fully accessible units will be comparable to the variety of bedroom quantities of units which are not fully accessible. Borrowers will not, however, be required to exceed the 5 percent requirement simply to have an accessible unit of each bedroom quantity. In addition, accessible units should be distributed throughout the complex so not to concentrate the units in one location.

(4) All MFH must meet:

(i) The accessibility requirements as contained in section 504 of the Rehabilitation Act of 1973;

(ii) The requirements of the Fair Housing Amendments Act of 1988;

(iii) The requirements of the Americans with Disabilities Act of 1990, as applicable; and

(iv) All other Federal, State, and local requirements. When architectural standards differ, the most stringent standard will be followed.

§ 3560.61 Loan security.

(a) *General.* Each loan made by the Agency will be secured in a manner that adequately protects the financial interest of the Federal Government throughout the period of the loan.

(b) *Lien position.* (1) The Agency will seek a first or parity lien position on Agency-financed property in all instances. The Agency may accept a junior lien position if the Federal Government's interests are adequately secured.

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(2) The Agency will seek a first or parity lien on revenue from rent; Agency, HUD, state or private rental subsidy payments; chattels; assignments; and operating and reserve accounts. The Agency will accept a junior lien position if the Federal Government's interests are adequately secured.

(c) *Liability.* Personal liability will be required of all individual borrowers. Personal liability will not be required for the members or stockholders of any corporation or trust or any partners in a limited partnership.

(d) *Housing and land ownership.* Applicants must own the MFH and related land for which the loan is being requested, or become the owner when the loan is closed or have a leasehold interest in the land. If an applicant is not the owner of the housing and the related land, the following conditions must be met prior to or at loan closing.

(1) A recorded mortgage on the improvements is given as collateral.

(2) The amount of the loan against the collateral does not exceed its estimated security value.

(3) The unexpired term of the lease on the date of loan closing is at least 50 percent longer than the term of the loan and rent charged for the lease does not exceed the rate being paid for similar leases in the area.

(4) The applicant's leasehold interest is not subject to summary foreclosure or cancellation.

(5) The lease permits:

(i) The Agency to foreclose the mortgage and to transfer the lease;

(ii) The Agency to bid at a foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure;

(iii) The Agency to occupy the property, sublet the property, or sell the leasehold for cash or credit if the leasehold is acquired through foreclosure, if the Agency accepts voluntary conveyance in lieu of foreclosure, or if the borrower abandons the property; and

(iv) The applicant, in the event of default or inability to continue with the lease and the loan, to transfer the leasehold subject to the mortgage to a transferee that will assume the property ownership obligations.

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§ 3560.62 Technical, legal, insurance, and other services.

(a) *Legal services.* Applicants must have written contracts for any legal services that are to be paid out of Agency loan funds.

(b) *Title clearance.* Applicants must obtain title clearance in accordance with the provisions of 7 CFR part 1927, subpart B applicable to title clearance, which would include title insurance or title opinion, unless the loan applicant is leasing the property or is an organization or an individual with special title or loan closing problems, in which case title clearance and related legal services will be obtained in accordance with procedures approved by the Agency.

(c) *Architectural services.* Applicants must obtain a written contract for architectural services in accordance with the provisions of 7 CFR part 1924, subpart A.

(d) *Insurance.* Applicants must have property and liability coverage at loan closing as well as flood insurance, if needed. Fidelity coverage must be in force as soon as there are assets within the organization and it must be obtained before any loan funds or interim financing funds are made available to the borrower. At a minimum, applicants must meet the property, liability, flood, and fidelity insurance requirements in § 3560.105.

(e) *Surety bonding.* Applicants must comply with the surety bonding provisions of 7 CFR part 1924, subpart A.

§ 3560.63 Loan limits.

(a) *Determining the security value.* The security value for an Agency loan is the lesser of the total development cost (exclusive of any developer's fee as provided by paragraph (d)(2) of this section) or the housing project's security value as determined by an appraisal conducted in accordance with subpart P of this part, minus any prior or parity liens on the housing project. For purposes of determining security value:

(1) Total development cost must be calculated excluding costs not considered allowable under § 3560.54(a), and excluding costs related to compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.