Office of Asst. Sec. for Housing, HUD § 1710.116

(i) Occupancy. How many homes are occupied on a full- or part-time basis as of the date of submission?

§ 1710.116 Additional information.

(a) Property Owners’ Association. (1) Will there be a property owners’ association for the subdivision? Has it been formed? What is its name? Is it operating? If not yet formed, when will it be formed? Who is responsible for its formation?

(2) Does the developer exercise, or have the right to exercise, any control over the Association because of voting rights or placement of officers or directors? For how long will this control last?

(3) Is membership in the association voluntary? Will non-member lot owners be subject to the payment of dues or assessments? What are the association dues? Can they be increased? Are members subject to special assessments? For what purpose? If membership in the association is voluntary and if the association is responsible for operating or maintaining facilities which serve all lot owners, include the following statement:

“Since membership in the association is voluntary, you may be required to pay a disproportionate share of the association costs or it may not be able to carry out its responsibilities.”

(4) What are the functions and responsibilities of the association? Will the association hold architectural control over the subdivision?

(5) Are there any functions or services that the developer now provides at no charge for which the association may be required to assume responsibility in the future? If so, will an increase in assessments or fees be necessary to continue these functions or services?

(6) Does the current level of assessments, fees, charges or other income provide the capability for the association to meet its present, or planned, financial obligations including operating costs, maintenance and repair costs and reserves for replacement? If not, how will any deficit be made up?

(b) Taxes. (1) When will the purchaser’s obligation to pay taxes begin? To whom are the taxes paid? What are the annual taxes on an unimproved lot after the sale to a purchaser? If the taxes are to be paid to the developer, include a statement that “Should we not forward the tax funds to the proper authorities, a tax lien may be placed against your lot.”

(2) If the subdivision is encompassed within a special improvement district or if a special district is proposed, describe the purpose of the district and state the amount of assessments. Describe the purchasers obligation to retire the debt.

(c) Violations and litigations. This information need appear only if any of the questions are answered in the affirmative. Unless the Secretary gives prior approval for it to be omitted, a brief description of the action and its present status or disposition shall be given.

(1) With respect to activities relating to or in violation of a Federal, state or local law concerned with the environment, land sales, securities sales, construction or sale of homes or home improvements, consumer fraud or similar activity, has the developer, the owner of the land or any of their principals, officers, directors, parent corporation, subsidiaries or an entity in which any of them hold a 10% or more financial interest, been:

(i) Disciplined, debarred or suspended by any governmental agency, or is there now pending against them an action which could result in their being disciplined, debarred or suspended or,

(ii) Convicted by any court, or is there now pending against them any criminal proceedings in any court? (OILSR suspension notices on preeffective Statements of Record and amendments need not be listed.)

(2) Has the developer, the owner of the land, any principal, any person holding a 10% or more financial or ownership interest in either, or any officer or director of either, filed a petition in bankruptcy? Has an involuntary petition in bankruptcy been filed against it or them or have they been an officer or director of a company which became insolvent or was involved, as a debtor, in any proceedings under the Bankruptcy Act during the last 13 years?
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(3) Is the developer or any of its principals, any parent corporation or subsidiary, any officer or director a party to any litigation which may have a material adverse impact upon its financial condition or its ability to transfer title to a purchaser or to complete promised facilities? If so, include a warning which describes the possible effects which the action may have upon the subdivision.

(d) Resale or exchange program. (1) Are there restrictions which might hinder lot owners in the resale of their lots (e.g., a prohibition against posting signs, limitations on access to the subdivision by outside brokers or prospective buyers; the developer’s right of first refusal; membership requirements)? If so, briefly explain the restrictions.

(2) Does the developer have an active resale program? If the answer is “no”, include the following statement: “We have no program to assist you in the sale of your lot.”

(3) Does the developer have a lot exchange program? If the answer is “yes”, describe the program; state any conditions and indicate if the program reserves a sufficient number of lots to accommodate all those wishing to participate. If there is no program or if sufficient lots are not reserved, include one of the following statements as applicable: “We do not have any provision to allow you to exchange one lot for another” or “We do not have a program which assures that you will be able to exchange your lot for another.”

(e) Unusual situations. This topic need appear only if one or more of the following cases apply to the subdivision, then only the applicable subject, or subjects, will appear.

(1) Leases. What is the term of the lease? Is it renewable? Is it recordable? Can creditors of the developer, or owner, acquire title to the property without any obligation to honor the terms of the lease? Are the lease payments a flat sum or are they graduated? Can the lessee mortgage or otherwise encumber the leasehold? Will the lessee be permitted to remove any improvements which have been installed when the lease expires or is terminated?

(2) Foreign subdivision. (i) Is the owner or developer of the subdivision a foreign country corporation? If legal action is necessary to enforce the contract, must it be taken in the courts of the country where the subdivision is located?

(ii) Does the country in which the subdivision is located have any laws which restrict, in any way, the ownership of land by aliens? If so, what are the restrictions?

(iii) Must an alien obtain a permit or license to own land, build a home, live, work or do business in the country where the subdivision is located? If so, where is such permit or license secured; for how long is it valid and what is its cost?

(3) Time sharing. (i) How is title to be conveyed? How many shares will be sold in each lot? How is use time allocated? How are taxes, maintenance and utility expenses divided and billed? How are voting rights in any Association apportioned? Are there management fees? If so, what are their amounts and how are they apportioned?

(ii) Is conveyance of any portion of the lot contingent upon the sale of the remaining portions? Is the initial buyer responsible for any greater portion of the expense than his normal share until the remaining interests are sold? If the purchase of any of the portions is financed, will the default of one owner have any effect upon the remaining owners?

(4) Memberships. (i) Does the purchaser receive any interest in title to the land? What is the term of the membership? Is it renewable? What disposition is made of the membership in the event of the death of the member? Are the lots individually surveyed and the corners marked? If not, how does the member identify the area which the member is entitled to use? What is the approximate square footage the member is entitled to use? Are there different classes of membership? How are the different classes identified and what are the differences between them?

(ii) If the member does not receive any interest in the title to the land, include a warning to the effect that “you receive no interest in the title to the...
land but only the right to use it for a
certain period of time.'’

(f) Equal opportunity in lot sales. State
whether or not the developer is in com-
pliance with title VIII of the Civil
Rights Act of 1968 by not directly or in-
directly discriminating on the basis of
race, religion, sex or national origin in
any of the following general areas: Lot
marketing and advertising, rendering
of lot services, and in requiring terms
and conditions on lot sales and leases.

An affirmative answer cannot be given
if the developer, directly or indirectly,
because of race, color, religion, sex or
national origin is:

(1) Refusing to sell or lease lots after
the making of a bona fide offer or to
negotiate for the sale or lease of lots or
is otherwise making unavailable or de-
nying a lot to any person, or

(2) Discriminating against any person
in the terms, conditions or privileges
in the sale or leasing of lots or in pro-
viding services or facilities in connec-
tion therewith,
or

(3) Making, printing, publishing or
causing to be made, printed or pub-
lished any notice, statement or adver-
sitement with respect to the sale or
leasing of lots that indicates any pref-
erence, limitation or discrimination
against any person, or

(4) Representing to any person that
any lot is not available for inspection,
sale or lease when such lot is in fact
available, or

(5) For profit, inducing or attempting
to induce any person to sell or lease
any lot by representations regarding
the entry or non-entry into the neigh-
borhood of a person or persons of a par-
ticular race, color, religion, sex or na-
tional origin.

(g) Listing of lots. Provide a listing of
lots which shall consist of a description
of the lots included in the Statement of
Record by the names or number of the
section or unit, if any; the block num-
ber, if any; and the lot numbers. The
lots shall be listed in the most efficient
and concise manner. If the filing is a
consolidation, the listing shall include
all lots registered to date in the sub-
division, except any which have been
deleted by amendment.

[44 FR 21453, Apr. 10, 1979, as amended at 49
FR 31370, 31371, Aug. 6, 1984]