

1346(b), 2671 *et seq.* and the Military Personnel and Civilian Employees' Claims Act of 1974, 31 U.S.C. 3721 *et seq.*

7. To act upon the appeals and issue final determinations on appeals of denial of access or record correction under the Privacy Act of 1974, except appeals regarding records maintained by the Office of Inspector General (Pub. L. 93-579), 5 U.S.C. 552(c).

8. To make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)).

9. To act upon appeals under the Freedom of Information Act, 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

10. To appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner under Section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under Section 812 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3761; and to promulgate regulations necessary to carry out the provisions of the Single Family Mortgage Foreclosure Act.

11. To make determinations and certifications required under Section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

12. To designate authorized officials to exercise the powers or perform the duties of the General Counsel, through an order of succession (subject to the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d), during any period when, by reason of absence, disability, or vacancy in office, the General Counsel for HUD is not available.

13. To serve as an Attesting Officer and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD.

14. To act as the designated official under Section 5(a) of Executive Order 12630, *Governmental Actions and Interference With Constitutionally Protected Property Rights*, issued March 15, 1987, (53 FR 8859, March 18, 1988) consistent with Executive Order 13406, *Protecting the Property Rights of the American People*, issued June 23, 2006 (71 FR 36973, June 28, 2006).

15. To make determinations of federalism implications, preemption, or the need for consultations with state and local officials as required by Executive Order 13131, *Federalism*, issued August 4, 1999 (64 FR 43255, August 10, 1999).

Section B. Authority To Redelegate

The General Counsel is authorized to redelegate to employees of HUD any of the authority delegated under Section A above.

Section C. Authority Superseded

This delegation supersedes all previous delegations of authority from the Secretary to the General Counsel including, but not limited to, those listed below:

1. 45 FR 67779 (October 14, 1980) [Docket No. D-80-623], as amended by 54 FR 4913 (January 31, 1989) [Docket No. D-89-893; FR-2595];
2. 54 FR 4913 (January 31, 1989) [Docket No. D-89-893; FR-2595];
3. 54 FR 13121 (March 30, 1989) [Docket No. D-89-894; FR-2614];
4. 54 FR 46654 (November 6, 1989) [Docket No. D-89-893, FR-2595];
5. 56 FR 52557 (October 21, 1991) [Docket No. D-91-963; FR-3170-D-01];
6. 58 FR 8057 (February 11, 1993) [Docket No. D-93-1017; FR-3445-D-01];
7. 59 FR 9761 (March 1, 1994) [Docket No. D-94-1051; FR-3667-D-01];
8. 59 FR 39955 (August 5, 1994) [Docket No. R-94-1744; FR-3754-F-01];
9. 59 FR 53522 (October 24, 1994) [Docket No. D-94-1075; FR-3791-D-01];
10. 60 FR 57526 (November 15, 1995) [Docket No. FR-3951-D-01];
11. 61 FR 50215 (September 24, 1996) [Docket No. FR-4022-F-02];
12. 61 FR 53382 (October 11, 1996) [Docket No. FR-4147-D-01], as amended by 68 FR 37170 (June 23, 2003) [Docket No. FR-4837-D-36]; and
13. 68 FR 41840 (July 15, 2003) [Docket No. FR-4837-D-33].

Authority: Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: November 3, 2008.

Steven C. Preston,
Secretary.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5268-D-02]

Consolidated Redelegation of Authority to the Office of General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This redelegation of authority consolidates and updates past redelegations of authority from the General Counsel to subordinate employees.

DATES: *Effective Date:* November 6, 2008.

FOR FURTHER INFORMATION CONTACT: John P. Opitz, Associate General Counsel, Office of Finance and Regulatory Compliance, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 9256, Washington, DC 20410-7000; 202-402-5178. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling 202-708-1455.

SUPPLEMENTARY INFORMATION: Elsewhere in today's *Federal Register* is a notice of a consolidated delegation of authority from the Secretary of HUD to the General Counsel. In that notice, the General Counsel was given the authority to redelegate to employees of HUD any authority delegated by the Secretary to the General Counsel. Through this notice, the General Counsel is redelegating certain authority to other employees of the Office of General Counsel.

Section A contains concurrent redelegations from the General Counsel to the General Deputy General Counsel, the Deputy General Counsel for Operations and the Deputy General Counsel for Housing Programs. Section B contains redelegations from the General Counsel to specific positions within the Office of General Counsel. Section C contains redelegations to the Departmental Enforcement Center within the Office of General Counsel. These redelegations revoke and supersede all previous delegations of authority from the General Counsel to subordinate employees.

Section A. Authority Delegated to the General Deputy General Counsel and Deputy General Counsels

The General Counsel retains and redelegates the following authority concurrently to the General Deputy General Counsel, the Deputy General

Counsel for Operations, and the Deputy General Counsel for Housing Programs.

1. To interpret the authority of the Secretary and to determine whether the issuance of any rule, regulation, statement of policy, or standard promulgated by HUD is consistent with that authority.

2. To direct all litigation affecting HUD and to sign, acknowledge and verify on behalf of and in the name of the Secretary all declarations, bills, petitions, pleas, complaints, answers, and other pleadings in any court proceeding brought in the name of or against the Secretary or in which he/she is a named party.

3. To direct the referral of cases and other matters to the Attorney General for appropriate legal action and to transmit information and material pertaining to the violation of law or HUD rules and regulations. There are excepted from this authority, however, those referrals and transmittals that the Inspector General is authorized to make by law or by delegation of authority.

4. To accept, on behalf of the Secretary, service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of HUD in an official capacity and to execute affidavits asserting HUD's deliberative process privilege.

5. Where not inconsistent with other regulations pertaining to proceedings before administrative law judges, to approve the issuance of subpoenas or interrogatories pertaining to investigations for which responsibility is vested in the Secretary.

6. To consider, ascertain, adjust, determine, compromise, allow, deny or otherwise dispose of claims under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671 *et seq.* and the Military Personnel and Civilian Employees' Claims Act of 1974, 31 U.S.C. 3721 *et seq.*

7. To act upon the appeals and issue final determinations on appeals of denial of access or record correction under the Privacy Act of 1974, except appeals regarding records maintained by the Office of Inspector General (Pub. L. 93-579), 5 U.S.C. 552(c).

8. To make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)) ("Privacy Act").

9. To act upon appeals under the Freedom of Information Act, 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

10. To appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner under:

(a) Section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under Section 812 of the Single Family Mortgage Foreclosure Act of 1994; 12 U.S.C. 3761, and to promulgate regulations necessary to carry out the provisions of the Single Family Mortgage Foreclosure Act of 1994; and

(b) Section 365 of the Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. 3701, *et seq.*; the power to fix compensation for the foreclosure commissioner under Section 369(c) of the Multifamily Mortgage Foreclosure Act of 1981; 12 U.S.C. 3701, *et seq.*, and to promulgate regulations necessary to carry out the provisions of the Multifamily Mortgage Foreclosure Act of 1981.

11. To make determinations and certifications required under Section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

12. To designate authorized officials to exercise the powers or perform the duties of the General Counsel, through an order of succession (subject to the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d), during any period when by reason of absence, disability, or vacancy in office, the General Counsel for HUD is not available.

13. To serve as an Attesting Officer and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD.

14. To act as the designated official under Section 5(a) of Executive Order 12630, *Governmental Actions and Interference With Constitutionally Protected Property Rights*, issued March 15, 1987 (53 FR 8859, March 18, 1988), consistent with Executive Order 13406, *Protecting the Property Rights of the American People*, issued June 23, 2006 (71 FR 36973, June 28, 2006).

15. To make determinations of federalism implications, preemptions, or the need for consultation with state and local officials as required by Executive Order 13131, *Federalism*, issue August 4, 1999 (64 FR 43255, August 10, 1999).

Section B. Authority Redelegated to Specific Positions Within the Office of General Counsel

The General Counsel hereby retains and redelegates the following authority to the General Deputy General Counsel, the Deputy General Counsels and to specific positions within the Office of General Counsel. This authority may not be further redelegated unless expressly stated in the redelegation.

1. To the Associate General Counsel for Litigation and to Regional Counsel, the authority to accept, on behalf of the Secretary, service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of HUD Headquarters in an official capacity. The Associate General Counsel for Litigation may redelegate this authority within the Office of Litigation and the Regional Counsel may redelegate this authority to Chief Counsels within their operating jurisdiction.

2. To the Associate General Counsel for Finance and Regulatory Compliance, or designee, the authority to implement the policies of the National Environmental Policy Act (NEPA) and other environmental requirements of HUD, including the performance of the responsibilities of the Program Environmental Clearance Officer for the Office of General Counsel; 24 CFR 50.10(a), 50.16. The Associate General Counsel retains and redelegates this authority to the Assistant General Counsel, GSE/RESPA Division, and to the Senior Environmental Attorney.

3. To the Associate General Counsel for Fair Housing and to Regional Counsel, the authority to process cases arising under the Fair Housing Act and other Civil Rights statutes, as set forth in 24 CFR parts 103 and 180 (with the exception of 24 CFR 180.675). The Associate General Counsel for Fair Housing retains this authority and further redelegates it to the Assistant General Counsel for Fair Housing Enforcement.

4. To the Associate General Counsel for Fair Housing, the authority under 24 CFR 180.675 concerning petitions for review. The Associate General Counsel for Fair Housing retains and redelegates this authority to the Assistant General Counsel for Fair Housing Enforcement.

5. To the Associate General Counsel for Program Enforcement, the Associate General Counsel for Finance and Regulatory Compliance, the Associate General Counsel for Human Resources Law, the Associate General Counsel for Litigation, and the Associate General Counsel for Fair Housing, the authority

to make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)) ("Privacy Act"), except appeals involving records maintained by the Office of Inspector General.

6. To the Associate General Counsel for Human Resources Law, the authority to make determinations and certifications required under section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

7. To the Associate General Counsel for the Office of Assisted Housing and Community Development, the authority to make legal determinations on behalf of the Department of Housing and Urban Development on matters involving the financing of obligations guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5308.

8. To the Senior Counsel, the authority to act upon appeals under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

9. To Regional Counsel, in each Regional Office, the authority to serve as Deputy Agency Ethics Official responsible for undertaking Standards of Conduct program duties as directed by the General Counsel. The Regional Counsel may redelegate their duties to Deputy Regional Counsel upon the written approval of the General Counsel.

10. To Regional Counsel, the authority to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner under section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under section 812 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3761; and to promulgate regulations necessary to carry out the provisions of the Single Family Mortgage Foreclosure Act of 1994. This authority may be redelegated to the Deputy Regional Counsel with the approval of the General Counsel.

11. To Regional Counsel, the authority to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, under section 365 of the Multifamily Mortgage Foreclosure Act of 1981 and the power to fix compensation for the foreclosure commissioner under Section 369C of the

Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701, *et seq.*). This authority may be redelegated to the Deputy Regional Counsel with the approval of the General Counsel.

12. To Regional Counsel for Region I (Boston, MA), through the Federal Tort Claims Center, the power and authority to consider, ascertain, adjust, determine, compromise, allow, deny or otherwise dispose of claims under the Federal Tort Claims Act and the Military Personnel and Civilian Employees' Claims Act of 1964.

13. To Regional Counsel, the authority to concur on the issuance and settlement of limited denials of participation (LDPs) issued by HUD Field Offices pursuant to 2 CFR part 2424.

14. To the positions listed below, the authority to serve as Attesting Officers and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD:

- (a) Each Associate General Counsel;
- (b) Each Assistant General Counsel;
- (c) Each Regional Counsel;
- (d) Each Deputy Regional Counsel;
- and
- (e) Each Chief Counsel.

This authority may be redelegated.

Section C. Authority Redelegated to the Departmental Enforcement Center

The General Counsel retains and redelegates the following authority to the Director of the Departmental Enforcement Center, the Deputy Director, and the Directors of the satellite Departmental Enforcement Centers. This authority may not be further redelegated unless expressly stated in the redelegation.

1. The authority to take all actions permitted under 24 CFR 30.36, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner.

2. The authority to take all actions permitted under 24 CFR 30.45, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner.

3. The authority to take all actions permitted under 24 CFR 30.68, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner or the Assistant Secretary for Public and Indian Housing.

4. The authority to issue notice of default under the terms of a section 8

housing assistance payments contract issued under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner.

5. The authority to issue notice of violation under the terms of a regulatory agreement and notice of default under contract issued under the authority of the Assistant Secretary for Housing—Federal Housing Commissioner.

6. The authority to initiate a civil money penalty action against:

(a) Employees who improperly disclose information pursuant to section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a(c)) and 24 CFR part 4, subpart B in accordance with the provisions of 24 CFR part 30.

(b) Applicants for assistance, as defined in 24 CFR part 4, subpart A, who knowingly and materially violate the provisions of subsections (b) or (c) of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) in accordance with the provisions of 24 CFR part 30.

Section D. Authority Superseded

This delegation supersedes all previous delegations of authority from the General Counsel to subordinate positions within the Office of General Counsel including, but not limited to, all delegations listed below:

1. 45 FR 67779 (October 14, 1980) [Docket No. D-80-623], as amended by 54 FR 4913 (January 31, 1989) [Docket No. D-89-893; FR-2595];
2. 54 FR 4913 (January 31, 1989) [Docket No. D-89-893; FR-2595];
3. 54 FR 13121 (March 30, 1989) [Docket No. D-89-894; FR-2614];
4. 54 FR 46654 (November 6, 1989) [Docket No. D-89-893; FR-2595];
5. 58 FR 8057 (February 11, 1993) [Docket No. D-93-1017];
6. 58 FR 8057 (February 11, 1993) [Docket No. D-93-1017; FR-3445-D01];
7. 59 FR 9761 (March 1, 1994) [Docket No. D-94-1051; FR-3667-D01];
8. 59 FR 52986 (October 20, 1994) [Docket No. D-94-1074; FR-3801-D-01];
9. 65 FR 4619 (January 31, 2000) [Docket No. FR-4572-D-01];
10. 67 FR 44234 (July 1, 2002) [Docket No. FR-4752-D-01];
11. 68 FR 41840 (July 15, 2003) [Docket No. FR-4837-D-33].

Authority: Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: November 6, 2008.

Robert M. Couch,
General Counsel.

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