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11-26-87
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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

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INSTRUCTIONS TO CLOSING ATTORNEY

REGULATORY AGREEMENT - FHA FORM 2466 - MULTIFAMILY HOUSING PROJECTS
(Under Sections 207, 220, 221(d)(4), 231 and 232, Except Nonprofits)

1. Form of Mortgagor

(a.) Corporate Mortgagor - any form of Corporate Charter may be used which:

- (1) contains nothing inconsistent with the Regulatory Agreement,
- (2) gives the corporation powers necessary to operate the project and execute the note and mortgage, and
- (3) specifically authorizes the execution of the Regulatory Agreement.

Suggested charter provisions to accomplish the above purposes are attached.

(b.) Partnership Mortgagor - Unless all partners execute the Regulatory Agreement, a copy of the partnership agreement should be furnished and should be examined to determine that it contains nothing inconsistent with the Regulatory Agreement. It should further contain a provision substantially as follows:

"The partnership is authorized to execute a note and mortgage in order to secure a loan to be insured by the Secretary of Housing and Urban Development and to execute a Regulatory Agreement and other documents required by the Secretary in connection with such loan. Any incoming partner shall as a condition of receiving an interest in the partnership property agree to be bound by the note, mortgage, and Regulatory Agreement and other documents required in connection with the FHA insured loan to the same extent and on the same terms as the other partners. Upon any dissolution, no title or right to possession and control of the project, and no right to collect the rents therefrom shall pass to any person who is not bound by the Regulatory Agreement in a manner satisfactory to the Secretary.

(c.) Trust - any Trust Agreement before it is finally accepted generally should:

- (1) give the trustee the powers necessary to execute the note and mortgage;
- (2) specifically authorize the execution of the Regulatory Agreement;
- (3) contain nothing inconsistent with the Regulatory Agreement;
- (4) prohibit the transfer of beneficial interest prior to completion of the project without the prior written consent of the Secretary and prohibit the transfer to such interest subsequent to completion of the project unless the new beneficiary assumes and agrees to be bound by the Regulatory Agreement; and
- (5) require that the Secretary be advised ten (10) days prior to any proposed transfers of beneficial interests.

2. The Section of the National Housing Act under which the mortgage was originally endorsed for insurance or the fact that the mortgage originally was a Secretary-held purchase money mortgage shall be set out in the heading of the Agreement under the item "mortgage."

3. The names of all mortgagors including all beneficiaries of any trust shall be set out in the first unnumbered paragraph of the Agreement in the place for listing the names of the parties. Where any such person is signing the Agreement as trustee or in some other representative capacity, this fact shall be clearly set out both in this first paragraph and in an identical manner at the end of the Agreement where such person signs. The name of a person signing in a representative capacity should also be set out in his individual capacity in Paragraph 17. For example: a party may be designated, "Mr. Jones, as trustee of Sara Jones Trust," be listed in Paragraph 17 as "Mr. Jones, individually," and sign the Agreement as "Mr. Jones, trustee of the Sara Jones Trust." This would make the Sara Jones Trust responsible for carrying out the provisions of the Regulatory Agreement, but Mr. Jones would be responsible individually only for his own acts.

4. In all cases involving the issuance of a commitment to insure there shall be added to the mortgage a provision substantially as follows:

"The Regulatory Agreement of even date herewith entered into between the Mortgagors (Grantors) herein and the Secretary of Housing and Urban Development which is being recorded simultaneously herewith, is incorporated in and made a part of this mortgage (deed of trust). Upon default under the Regulatory Agreement and upon request by the Secretary, the Mortgagee, at its option, may declare this mortgage (deed of trust) in default and may declare the whole of the indebtedness secured hereby to be due and payable."

If the mortgage is already on record, it should be modified to incorporate the Regulatory Agreement. Ordinarily this may be done by a separate Modification Agreement executed by the mortgagor and mortgagee.

5. The Regulatory Agreement shall be executed by the Mortgagor and Secretary and recorded at the expense of the mortgagor prior to endorsement for insurance, prior to consent to a conveyance in existing insured mortgage cases, or prior to the conveyance to a purchaser in sales cases.