



U.S. Department of Housing and Urban Development
Jacksonville Office, Region 4
Office of Chief Counsel
400 West Bay Street, Suite 1015
Jacksonville, Florida 32202

REQUIREMENTS FOR APPROVAL OF SUBORDINATE SECOND LOAN MORTGAGES FOR 202 OR 811 PROJECTS

In order to expedite the review and approval of subordinate loan documents, the following requirements must be met:

1. The subordinate note and mortgage may not become due and payable prior to the amortization of the 202 or 811 capital advance. If an earlier maturity date is required, the loan documents must indicate that payments to the loan will only be made from residual receipts, to the extent available, with HUD approval, or from the sponsor's own funds.
2. The subordinate loan documents may not impose any requirements that interfere or conflict with HUD's requirement concerning development or operation of the project.
3. There must be language requiring HUD's approval before a default is declared
4. There must be language indicating approval of a Transfer of Physical Assets (TPA), if HUD approves a TPA.

The requirements above can be met by incorporating the language into the loan documents, or by adding a rider to the Mortgage. See sample provided.

Time needed for legal review and approval.

A request for review of documents, and any responses to Legal's comments, should be submitted through the assigned project manager. Prior to submitting a request to review loan documents, the owner must have obtained asset management's approval of his intent to apply for a second loan. Depending on the workload, a legal review of subordinate loan closing documents will be conducted within 5 to 10 business days from receipt to the Office of Counsel. Approval will be granted once all the requirements above are included in the documents. Once the EHCL loan closing takes place, a copy of the recorded documents should be submitted to HUD for our files.

References:

Notice 99-7

Notice 95-38

Sample Rider to Mortgage

If a refinance under Section 223(f), see MAP Guide 8 & 12.1.4(I)