

CHECKLIST OF TASKS IN PREPARING FOR AND COMPLETING HFA GROUND LEASE TRANSACTIONS

Not all the tasks in this list will be necessary or appropriate for all transactions and some circumstances may call for additional tasks not listed here.

- The appropriate parties sign a purchase and sale contract. If new construction or substantial rehabilitation, the homeowner needs to produce a signed construction contract with terms and conditions satisfactory to the HFA. Each party to the contract receives a signed original. Copies are made and distributed to the attorneys or title company that will oversee the closing. If the contract is signed prior to authorization of the transaction by the HFA board, then the contract should state that the sale is contingent on such authorization.
- The HFA board passes any resolution required by its policies to authorize the transaction and designates one or more representatives to complete it. The HFA secretary signs a copy of the resolution, certifying that it was duly adopted by the board. When the HFA itself is transferring the fee interest in the improvements and a leasehold interest in the land to a homebuyer, the resolution should authorize the transfer of both interests. When the HFA is not the seller of the improvements but is assigning its option to buy the improvements and is either agreeing to an assignment of the leasehold interest or is agreeing to sign a new lease, the resolution should authorize the specific actions intended.
- Closing documents, normally including the ground lease and deed to the improvements, are drafted, based on the contract. Particular attention needs to be given to the definition of "qualified income person(s)" and the "Lessor Purchase Option" process and valuation methods set forth in Section 10.6.
- When the HFA is to assign its purchase option to a new homebuyer, a written assignment-of-purchase option is prepared, unless the assignment is accomplished within a more comprehensive agreement (such as a three-party purchase and sale contract).
- The HFA circulates documents for review by the homebuyer and/or other participants in the transaction. These documents typically include the ground lease with exhibits and associated documents, any grant or deferred loan documents obligating the homebuyer, and any homeowner association documents.
- The homebuyer reviews documents and consults with her attorney. She may ask questions of the HFA regarding the documents. If she is satisfied, she gives letters of stipulation and acknowledgment to the HFA (within the required time period if a time limit is stated as a contingency in the purchase and sale contract).

- The HFA gets a copy of the homebuyer's loan application package and proposed mortgage documents from the lender or homebuyer. The HFA reviews mortgage terms and approves mortgage documents.
- The HFA makes sure that household income information in the application package is consistent with HFA's records and the requirements associated with any subsidies involved in the deal. The HFA also makes sure that, at the time of the scheduled closing, the income documentation will be as recent as is required by funders and mortgage lenders.
- Closing instructions are prepared by HFA attorney and/or staff, covering distribution of the sales proceeds, documents to be executed, and stating which documents are to be recorded after the closing.
- The HFA makes sure that all funds (from all sources) necessary to complete the closing are or will be available and can be transferred at the closing (i.e. SHIP/Home or other subsidies, including HFA, local jurisdictions or CDD 2nd Mortgage Programs).
- At the closing, the HFA attorney and/or designated representative make sure that all necessary documents are properly executed, and all monies properly allocated.
- After the closing, the HFA makes sure that all necessary bookkeeping entries are made to account for all consequences of the transaction. These entries will relate not only to cash receipts or disbursements but to the acquisition or transfer of noncash assets and the assumption or discharge of liabilities.
- The HFA makes sure that all necessary documents are received, after having been recorded, and that they are properly and securely filed.
- The HFA financial personnel establish a system to track and record ground lease payments.