

MONITORING SINGLE FAMILY BULK SALES

8.1 OVERVIEW

Some agencies will monitor one-to-four unit properties sold in bulk under a LURA entitled "Sale of Single Family Properties to Public Agencies and Nonprofit Organizations" -- also known as the ***Single Family Bulk Sale LURA***.

These properties may be operated as rental or sold for homeownership. Like owners of condominium units sold in bulk, public agencies and nonprofit groups purchasing these properties must comply with occupancy requirements and rent restrictions set forth in the LURA until the properties are sold to homebuyers. Only LI and VLI buyers may purchase these properties for homeownership.

This chapter outlines procedures for ensuring owner compliance with the LURA when renting and selling these properties, as well as monitoring fees and other administrative requirements.

8.2 MONITORING RENTAL OF ONE-TO-FOUR UNIT PROPERTIES PURCHASED IN BULK

The occupancy requirements and rent restrictions that apply to these properties when they are rented are very similar to those for AHP multifamily properties. Therefore, much like condominium units sold in bulk, agencies monitor owner compliance using the same procedures for monitoring multifamily properties discussed in the preceding chapters. However, there are two areas where the occupancy requirements for these Single Family Bulk Sale properties differ:

1. All units must be for LI and VLI households; and
2. There is no VLI Set-Aside governing these units.

In contrast to the occupancy requirements for most AHP multifamily properties, under which only a portion of the units must be kept available for LI and VLI tenants, owners of these properties must make 100 percent of the units available for occupancy by LI households. There is no requirement to reserve and rent (or sell) a portion of the units to VLI households, but any tenants qualifying as VLI are entitled to a rent within the applicable VLI limits.

As a result of these differences, the monitoring of these properties is simplified because there is no need to track the number of QUs, check that a

sufficient number of units are held available for VLI tenants, or monitor for NAU compliance. Nevertheless, the agency's principal monitoring activities remain:

- ◇ Providing owners with compliance materials;
- ◇ Initiating compliance reporting and establishing a monitoring file;
- ◇ Monitoring pre-compliance performance;
- ◇ Reviewing annual reports once full compliance is attained;
- ◇ Performing periodic on-site reviews;
- ◇ Taking enforcement actions in cases of non-compliance;
- ◇ Collecting annual monitoring fee; and
- ◇ Maintaining property monitoring files and reporting to FDIC.

8.3 REALES TO INDIVIDUAL HOMEBUYERS

FDIC anticipates that owners eventually will resell these properties to individual homebuyers. Several conditions apply to these resales.

Conditions of Property Resales to Homebuyers

Sales Requirements. Properties may be sold only to income-eligible LI or VLI buyers. There is no requirement that owners sell some portion of the units to VLI buyers.

Certification from Homebuyers. Owners must obtain a written income certification from buyers documenting their annual (gross) income, which must be verified and certified within the applicable limits by the owner using the procedures presented in Section 4.5 of the Owner's Manual before the certification is prepared. (Appendix M contains an FDIC-approved Homebuyer Income Certification (HIC) form and instructions.)

Recapture LURA for Property Sales. Owners must have individual buyers execute a LURA (see Appendix N) which establishes that the purchaser will retain ownership of the property for 12 months after the date of sale, or a portion of the sales proceeds are subject to recapture by FDIC.

Price Not Restricted for Property Sales. There is no regulatory limit on the price an owner can charge a buyer for a property. The property need only be purchased by an income eligible buyer.

Notice to Monitoring Agency of Unit Sales Owners must notify the monitoring agency of all property sales and provide a copy of the sales contract for each property sold.

Pay Processing Fee to Agency Owners must pay the monitoring agency a reasonable fee to process an AHP Recapture LURA and release a property from the Single Family Bulk Sale LURA.

In addition, bulk purchasers also must comply with all applicable Federal, state and local laws when reselling individual properties to eligible homebuyers.

8.4 MONITORING PROPERTY SALES

Agencies need to monitor owner compliance with the resale provisions of the Single Family Bulk Sale LURA, as well as the affordability requirements governing the rental of these properties.

A. Procedures for Monitoring Sales

No property subject to a LURA without the consent of the monitoring agency, which must determine that the property is being sold to an eligible homebuyer. When an owner notifies an agency of the anticipated sale of a property to a qualified household, the owner must provide the agency with:

1. a completed Homebuyer Income Certification (HIC) establishing that the buyer is an income eligible household;
2. a copy of the signed sales contract with the purchaser;
3. a completed AHP Recapture LURA, signed by the owner and the buyer;
and
4. payment of a processing fee as required by the agency.

These items are necessary for the agency to confirm that the property is being sold to a qualified buyer and can be released from the provisions of the Single Family Bulk Sale LURA. Monitoring staff must review the items submitted to assure that:

- ◇ the homebuyer is an income eligible household;
- ◇ the owner has accepted the purchaser's offer; and
- ◇ the owner and buyer have properly executed the Recapture LURA.

If each of the items has been properly submitted and the proposed buyer meets the applicable income limits, the agency should sign the Recapture LURA and forward the executed document to the closing agent for the sale. The agency

should instruct the closing agent to transmit a copy of the recorded Recapture LURA to the agency for its records.

Once the Recapture LURA has been recorded, the individual unit may be released formally from the requirements of the Single Family Bulk Sale LURA (although other unsold properties remain subject to the Bulk Sale LURA).

B. Changes in the Bulk Sale LURA

Once the agency receives a copy of the recorded Recapture LURA from the closing agent, the agency must amend the Single Family Bulk Sale LURA to reduce the required number of set-aside units and update its monitoring file to reflect the revised number of units. Copies of all amended documents should be sent to the owner/manager.

C. Monitoring Agency Purchases of One-to-Four Unit Properties in Bulk

State housing agencies and other public agencies under contract with FDIC to act as compliance monitors are allowed to make bulk purchases of one-to-four unit properties covered by the Single Family Bulk Sale LURA. Compliance monitors that make purchases of one-to-four unit properties and hold them for less than 12 months will be allowed to self-monitor. However, if a monitoring agency maintains ownership for a period longer than 12 months, FDIC may assign another agency to act as compliance monitor for the units in that purchase.

8.5 FEES AND ADMINISTRATIVE REQUIREMENTS

A. Annual Monitoring Fee

The annual monitoring fee is to be provided for each property. The additional administrative fee for non-compliance is also set in the same way. These fees are based on the number of properties in the purchase.

B. Processing Fee for Release from LURA

Agencies may also charge owners a reasonable fee for processing Recapture LURAs and releasing properties sold to eligible buyers from the provisions of the Single Family Bulk Sale LURA. Such a fee should be paid when the owner notifies the agency of a sale and submits the Recapture LURA and other items for review.

FDIC recommends that each agency establish a fee per property released that will remain in effect during the current monitoring fee period.

Monitoring staff could advise owners of revisions to the fee when sending the monitoring fee invoice for the coming period.

C. Administrative Requirements

As part of the agency's annual monitoring report to FDIC, monitoring staff should include the agency's monitoring activities regarding bulk sales of one-to-four unit properties and attach a listing of both the total rental properties and the number of properties reported as sold during the year.