

COMPLIANCE PROCEDURES FOR CONDOMINIUM BULK PURCHASES

8.1 OVERVIEW

This chapter applies only to owners who have purchased condominium units in a bulk sale.

The chapter outlines the requirements governing the rental of such units, describes the provisions governing sales of these units to individual homebuyers, and reviews the administrative fees applicable to these purchases.

8.2 RENTAL OF BULK SALE CONDOMINIUM UNITS

Condominium units sold in bulk may be rented as multifamily housing, either permanently or during an interim period until sold to Low Income buyers under the terms of the LURA. During such rental uses, owners essentially must treat the collection of condominium units in a bulk purchase as they would units in a multifamily rental property. When such units are rented or held for future sale, the units are subject to the occupancy, rent and lease provisions of the first six chapters of this manual.

Note: Many condominium bulk sales LURAs only have LI Set-Asides and not separate VLI Set-Asides. In such cases, the properties are not be subject to VLI Set-Aside requirements when renting.

8.3 SALE OF CONDOMINIUMS TO INDIVIDUAL HOMEBUYERS

FDIC anticipates that owners eventually will sell the condominium units in these purchases to individual homebuyers. The LURA for bulk condominium purchases establishes a specific number of units in the purchase that must be set-aside for Low Income households, and when units are sold, the same number must go to Low Income homebuyers.

All of the units in a bulk condominium sale are encumbered by the Bulk LURA and must be released by the monitoring agency from that LURA prior to sale. Even unrestricted units not needed to meet the Set-Aside must be approved for release by the monitoring agency, which must determine that there are sufficient units remaining after release to meet Set-Aside obligations.

It is the owner's responsibility to notify the monitoring agency of any pending sales and obtain approvals as explained below. Sales without legal releases from the monitoring agency are subject to legal challenge.

When selling condominium units to individual homebuyers, a number of conditions apply.

- ◆ **Low Income (LI) Sales Requirement** -- Owners must reserve enough units for sale to LI (and VLI, as applicable) buyers to meet the Set-Aside in the LURA.¹ Units not needed to meet the Total Set-Aside may be sold to buyers of any income, although owners are encouraged to sell units to LI buyers before selling the remaining units in the purchase.
- ◆ **Homebuyer Income Certification** -- For any purchasers of units reserved to meet the Set-Aside, owners must obtain a written income certification from LI buyers documenting that their annual (gross) income as defined in Chapter 4 is within the applicable AHP income limit. The buyer's income must be verified by the owner using the procedures in Section 4.5. This verification is good for 90 days. Delays in completion of the sale may require updated HICs. Appendix I contains an FDIC-approved Homebuyer Income Certification (HIC) form and instructions.
- ◆ **Recapture LURA for LI Sales** -- For any units designated to meet the Set-Aside, owners must require LI (and VLI, if applicable) buyers to execute a LURA establishing the condition that the purchaser will retain ownership of the unit for a period of at least 12 months after the date of sale. The LURA also includes a provision allowing FDIC to recapture the profits from any resale of the unit by the homebuyer

¹ If the LURA for a bulk purchase also includes a VLI Set-Aside, unit sales also must include a sufficient number of VLI buyers or reserved units to meet this Set-Aside, and all conditions specified in this Chapter for LI sales also apply to the VLI sales.

before the end of this 12-month period. A copy of this Recapture LURA is included in Appendix H.

- ◆ **Price Not Restricted for LI Sales** There is no ceiling restricting the price an owner can charge a LI buyer for a unit, or establishing affordability standards. The unit need only be purchased by an income eligible buyer. It is recommended that owners take into account the amount which a LI buyer can realistically afford, and that the lender(s) will assess affordability in the course of underwriting.
- ◆ **Notice to Agency of Unit Sales** -- Owners must notify the monitoring agency of all pending unit sales, provide a copy of the sales contract for each unit to be sold (and other documentation as noted below), and submit a listing of the remaining units held by the owner to indicate those units that are QUs or held available for rental by LI (and VLI, if applicable) tenants.
- ◆ **Release from Condominium Bulk Sale LURA** -- For each restricted unit sold, the owner should request that the agency execute a release for that unit from the provisions of the Condominium Bulk Sale LURA.
- ◆ **Pay Processing Fee to Agency** -- Owners must pay the monitoring agency a fee specified by the agency to process requests for AHP Recapture LURAs and release unrestricted units from the Condominium Bulk Sale LURA.

Resale of condominium units must comply with all applicable state and local statutes, in addition to the requirements described in this chapter.

8.4 REQUIRED SUBMISSIONS PRIOR TO THE SALE OF INDIVIDUAL UNITS

Agencies will monitor owner compliance with the LI resale provisions of the Condominium Bulk Purchase LURA, as well as the affordability requirements governing the rental of these units. This assessment will occur at the time of each sale, as well as in the periodic monitoring described in Chapter 6. This section addresses the submission requirements at the time of sale of a unit and the seller is requesting a release from the Bulk LURA.

A. Sale of Low Income Units

When an owner requests the monitoring agency to release a unit for an anticipated sale of a unit to a LI (or VLI) household, the owner must provide the agency with:

- ◇ a completed Homebuyer Income Certification (HIC) establishing that the buyer is an income eligible household;
- ◇ a copy of the signed sales contract with the purchaser;
- ◇ a completed AHP Recapture LURA, signed by the owner and the buyer;
- ◇ payment of any processing fee required by the agency; and
- ◇ any other documentation required by the monitoring agency.

These are necessary to establish that the unit will be sold to an income eligible buyer according to the Bulk LURA.

GOOD PRACTICE: Owners should submit the four items above to their monitoring agency for review **no later than 14 days prior to final closing.**

If the items has been properly submitted and the proposed buyer meets the applicable LI limit, the agency will secure execution of the document by the FDIC, and will forward the executed document to the closing agent for the sale. The upon completion of the sale, as noted in C. below, the Bulk Sales LURA will be amended to remove the approved unit and reduce the Set-Aside to reflect the QU sale.

Properties sold to individual LI buyers will not be released from the requirements of the Condominium Bulk Sale LURA unless the AHP Recapture LURA has been

executed by the monitoring agency (or FDIC) and properly recorded at final closing.

B. Sales of Unrestricted Units

Before units can be sold to buyers who are not LI or VLI purchasers, owners must have a sufficient number of units to satisfy the occupancy requirements for the purchase. Owners can sell unrestricted units to buyers of any income as long as there are enough QUs and vacant rental units to meet the Total Set-Aside.

When selling unrestricted units, owners must submit a list of the remaining units under their control at the time they propose a sale, and request a release from the Condominium Bulk Sale LURA for that unit. If the owner has the necessary units to meet the property's occupancy requirements and has paid the processing fee to the state agency, the agency will prepare a release from the Condominium Bulk Sales LURA for the units to be sold. Removal of the unit from the Bulk Sales LURA will not reduce the Set-Aside requirement.

Precondition For Sale of Unrestricted Units			
Number of QUs Aside	+	Number of Vacant Units	≥ Total Set- Aside

If the owner is out of compliance with the occupancy requirements, the agency may not be compelled to execute a release until the owners restores the property to compliance.

C. Changes in the Rental Set-Aside

Units sold to qualified LI (and VLI) buyers reduce the number of units that must be held available for rental to Low Income households. When the agency receives a copy of the recorded Recapture LURA from the closing agent, the agency will amend the LURA to reduce the

required number of Low Income rental or sales units by the number of units sold to approved LI buyers.

8.5 ADMINISTRATIVE FEES

A. Monitoring Fees

The annual monitoring fee is determined by the same method used for multifamily rental properties, and is based on the number of QUs required by the LURA. Likewise, the additional administrative fee for non-compliance is set in the same way.

As the Set-Aside is reduced through the sale of units as noted above, the fee is also reduced for future years.

B. Processing Fee for Release from LURA

Agencies may also charge owners a reasonable fee for processing Recapture LURAs and requests to release unrestricted units from the provisions of the Condominium Bulk Sale LURA. Such a fee must be paid to the agency when the owner gives notice of a proposed sale and submits a Recapture LURA or request for a release.

Agencies will advise owners of the applicable fee for processing release requests.