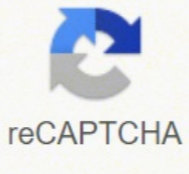




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## Agreement to enter into hap contract

After the landlord has selected a family, the unit has passed inspection (Section 3 - Inspections) and the rent has been determined and approved, the legal and binding documents will need to be signed. These documents include: The Lease; Tenancy Addendum; and Housing Assistance Payments Contract. Before executing the contracts, the landlord must provide proof of ownership of the property with a copy of the recorded warranty deed. If there is an agent managing the unit for the landlord, there must be a management agreement giving the agent the authority to manage the property and execute documents on behalf of the owner. In addition to supplying a recorded warranty deed, the MHA will need a copy of that agreement. The lease and tenancy addendum serve as a contract between the landlord and the family establishing the rights and responsibilities of both parties. The lease gives the family the right to occupy and use the interior and exterior of the unit for a specific period of time in accordance with the terms and conditions of the lease. A copy of the HUD Tenancy Addendum must be attached to the landlord lease. The approved lease agreement, takes precedence over any other lease that the landlord may have executed with the family prior to the HAP contract with the MHA. The Housing Assistance Contract is between the Landlord and the MHA. There are two parts to this agreement, Part A and B. Part A contains all contract information such as: Full name of family/Unit address/Beginning of lease term/All household members/Initial rent to owner/Housing Assistance Payment (HAP)/Signature of Landlord and the MHA representative/Maintenance, utilities and other services Part B contains all of the contract terms. Please read and be familiar with all of the terms of the contract, but play close attention to the following: Term of the HAP Contract/Relation to the lease term/When HAP contract terminates/Termination of Tenancy by Owner/Rent to Owner: Reasonableness/Rent to Owner: Adjustments/MHA's Payment to Owner/Owner Certification/The Owner is maintaining the unit in accordance with HQS/The unit is leased to the family named in the lease/The rent charged does not exceed that of a comparable unassisted unit rented by the owner/The owner will not collect more than the MHA determined family rent and subsidy, which combined equals the total contract rent/Assignment of HAP Contract/Conflict of Interest Lease: a written agreement between an owner or an owner's agent and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the MHA. At minimum the lease must contain the following information: The names of the owner(s) and the tenant/The unit rented (address, apartment number, and any other information needed to identify the contract unit)/The term of the lease (initial term and any provisions for renewal)/The amount of the monthly rent to owner/A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family/The amount of any charges for food, furniture, or supportive services We also recommend you include the following information in the lease (these are optional, not required): Notice Requirements (time required to terminate contract by either party). This should include a mailing address for both tenant and owner for formal notices/Forms of acceptable payments (Cash, check, money order, etc.)/Maintenance of the property (responsibilities)/Cost and Forms of Repair of Property Damages/Pet Policy Tenancy Addendum: contains information that must be included in or attached to the lease agreement. Once the unit passes inspection, the MHA will call you and the tenant to establish the move-in date. If the tenant is currently in the unit, the lease will start on or after the date the unit passes inspection. If the unit has passed and the tenant has not moved in the unit, you and the tenant must agree on the date you will surrender the keys to the tenant and come to the MHA office to sign the required paperwork. Then tenant must sign all documents before moving in. In order for you to receive prompt payment, you and the tenant must sign the documents promptly. Please make sure you receive a copy of all documents that you sign for your records. NOTE: If the tenant moves in before the unit passes inspection and before the contract signing, the tenant will be responsible for 100% of the contract rent until the unit passes and all documents are signed. (a) Execution of agreement. At the sales closing and prior to the Owner's commencement of any rehabilitation under this subpart, HUD will enter into an Agreement with the Owner which contains the following: (1) A statement that the Owner agrees to rehabilitate the project unit(s) to make the unit(s) decent, safe, and sanitary in accordance with the work write-up, cost estimates, and this subpart. (2) A date by which rehabilitation will have commenced and a deadline date by which the rehabilitated project unit(s) will be completed and ready for occupancy. The Agreement may provide for staged rehabilitation, occupancy, and payments under the contract. (3) The Contract Rent which will be paid to the Owner once rehabilitation is completed, the Contract is executed, and the unit(s) is/are occupied by an eligible family. (4) A date for final inspection of the unit(s) by HUD and the owner shall be specified. This date shall be as soon as possible after the deadline date specified pursuant to paragraph (a)(2) of this section. (5) The term of the contract. (b) Agreement part of sales contract. The Agreement will be prepared by HUD and incorporated into the Contract of Sale and Purchase. The Agreement shall include all required information in paragraph (a) of this section and a statement specifying the Owner's responsibility for making relocation payments to Families temporarily displaced. [44 FR 70365, Dec. 6, 1979, as amended at 58 FR 43722, Aug. 17, 1993] Page 2 (a) Immediate start of rehabilitation after sales closing. After the execution of the Agreement and the sales closing, the owner shall immediately proceed with the rehabilitation work as provided in the Agreement. In the event the work is not immediately commenced, diligently continued, and/or completed by the deadline date stated on the Agreement, HUD will have the right, upon written notification to the owner, to rescind the Agreement and the sale, or take other appropriate action. (b) Extensions. Although extensions of time may be granted by HUD upon a written request from the owner stating the grounds for the extension, no increases in Contract Rents shall be granted for delays. (c) Changes. (1) The Owner must submit to HUD for approval any changes from the work specified in the Agreement which would materially reduce or alter the Owner's obligations or the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of the Contract Rents. If changes are made without prior HUD approval, HUD will have the right to take action consistent with the purpose of this subpart, including action intended to preclude the owner from benefiting from a change in the work specified without HUD approval. HUD action shall include but is not limited to reducing the Contract Rents, requiring the owner to remedy the deficiency, or rescission of the Contract of Sale with reimbursement to the owner for the HUD determined reasonable cost of work items completed by the Owner and acceptable to HUD. (2) Contract Rents for project units being rehabilitated shall not be increased except in accordance with this subpart. Should an increase in Contract Rents be necessitated by changes in local codes or ordinances or other unanticipated changes in work items which could not have been anticipated by HUD, an increase will only be approved if HUD approval is obtained prior to incorporation of any changes in the project. [44 FR 70365, Dec. 6, 1979, as amended at 58 FR 43722, Aug. 17, 1993] Page 3 (a) Notification of completion. The owner must notify HUD in writing when work is completed and submit to HUD the evidence of completion and cost certifications described in paragraph (b) and (c) of this section. (b) Evidence of completion. Completion of the project must be evidenced by furnishing HUD with the following: (1) A certificate of occupancy and/or other official approvals necessary for occupancy as required by the locality. (2) A certification by the owner that: (i) The project unit(s) has been completed in accordance with the requirements of the Agreement; (ii) The project unit(s) is/are decent, safe, and sanitary; (iii) The project unit(s) has/have been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials; (iv) The project was in compliance with applicable HUD lead-based paint regulations at part 35, subparts A, B, H, and R of this title. (v) If applicable, the owner has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of the owner's knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the owner of HUD, the owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments; (vi) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and (vii) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in the approved purchase proposal other than changes approved in writing by HUD in accordance with the Agreement. (c) Actual cost and interest rate certifications. The Owner must provide HUD with statements of the actual costs, including the interest rate incurred for the rehabilitation, Contract Rent shortfalls, and any relocation approved by HUD. The owner shall certify that these are the actual costs. HUD shall review and approve these costs subject to post audit. (d) Review and inspections. (1) Within fifteen working days of the receipt of the evidence of completion, and the owner's certification of costs, HUD shall review the evidence of completion for compliance with paragraphs (b) and (c) of this section. (2) Within the same time period, a HUD representative shall inspect the units, to determine whether the units meet the Housing Quality Standards, the Agreement to Enter into the HAP, and any applicable work write-up. (e) If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs (g) (1) and (2) of this section. (f) Acceptance. If HUD determines from the review and inspection that the project has been completed in accordance with the Agreement, the project shall be accepted. (g) Acceptance where defects or deficiencies reported. If the projects unit(s) are not acceptable under paragraph (f) of this section, the following shall apply: (1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the contract executed. If the owner fails to complete the items within a reasonable time to the satisfaction of HUD, HUD may, upon 30 days notice to the owner terminate the contract and/or exercise its other rights thereunder, including rescission of the sale. (2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, HUD shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit HUD to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The owner shall be notified of HUD's determinations and, if the owner agrees to comply with the conditions, an addendum to the Agreement shall be entered into, specifying the remaining work, pursuant to which the defects or deficiencies will be corrected and the unit(s) then accepted. If the owner is unwilling to enter into such an addendum or fails to perform under the addendum, the units will not be accepted and appropriate remedies will be sought by HUD. Paragraphs (a) through (g) will apply when the remaining work is completed satisfactorily. (h) Notification of non-acceptance. If HUD determines that, based on the review of the evidence of completion and inspection, the unit(s) cannot be accepted, the Owner must be promptly notified of this decision and the reasons and steps shall be taken immediately to rescind the sale, or such other action deemed appropriate by HUD. Page 4 (a) Time of execution. Upon acceptance of the unit(s) by HUD pursuant to § 886.333(f), the contract will be executed first by the Owner and then by HUD. The effective date must be no earlier than the HUD inspection which provides the basis for unconditional acceptance. (b) Changes in initial contract rents during rehabilitation. (1) The Contract Rents established pursuant to § 886.310 and 24 CFR part 290 will be the Contract Rents on the effective date of the Contract except under the following circumstances: (i) When, during rehabilitation, work items are discovered which could not reasonably have been anticipated by HUD or are necessitated by an unforeseen change in local codes or ordinances; were not listed in the work write-up prepared by HUD but are deemed by HUD, in writing, to be necessary work; and will require additional expenditures which would make the rehabilitations infeasible at the Contract Rents established in the Agreement. Under these circumstances, HUD will: (A) Approve a change order to the rehabilitation contract, or amend the work write-up if there is no rehabilitation contract, specifying the additional work to be accomplished and the additional cost for this work. (B) Recompute the Contract Rents, within the limits specified in paragraph (b)(4) of this section, based upon the revised cost estimate, and (C) Prepare and execute an amendment to the Agreement stating the additional work required and the revised Contract Rents. (ii) When the actual cost of the rehabilitation performed is less than that estimated in the calculation of Contract Rents for the Agreement. (iii) When, due to unforeseen factors, the actual certified relocation payments made by the Owner to temporarily relocated Families varies from the cost estimated by HUD. (2) Should changes occur as specified in paragraph (b)(1) (ii) or (iii) (either an increase or decrease), HUD may recalculate the Contract Rents and amend the Contract or Agreement, as appropriate, to reflect the revised rents. The rents shall not be recalculated based on increased costs to maintain rents at the Section 8 level during the rehabilitation period. (3) HUD must review and approve the Owner's certification that the rehabilitation costs and relocation costs are the actual costs incurred. (4) In establishing the revised Contract Rents, HUD must determine that the resulting Contract Rents plus an applicable Utility Allowance do not exceed the Fair Market Rent or the exception rent provided in § 886.310 in effect at the time of execution of the Agreement. (c) Unleased unit(s). At the time the contract is executed, HUD will provide a list of dwelling unit(s) leased as of the effective date of the Contract and a list of the unit(s) not so leased, if any, and shall determine whether or not the owner has met the obligations with respect to any unleased unit(s) and for which of those unit(s) vacancy payments will be made by HUD. The owner must indicate in writing either concurrence with this determination or disagreement reserving all rights to claim vacancy payments for the unleased unit(s) pursuant to the contract, without prejudice by reason of the owner's signing the contract. Page 5 HUD will review project operations at such intervals as it deems necessary to ensure that the owner is in full compliance with the terms and conditions of the contract, Regulatory Agreement, and Agreement to Enter into a Housing Assistance Contract, if any. The equal opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD. The following state regulations pages link to this page.

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