

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 291**

[Docket No. FR-4277-I-02]

RIN 2502-AH37

Disposition of HUD-Acquired Single Family Property; Officer Next Door Sales Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends HUD's regulations that address the disposition of HUD-acquired single family properties to codify the policies and procedures concerning the Officer Next Door Sales Program (OND Sales Program). The OND Sales Program has been operating since August 11, 1997 as a temporary program. This interim rule establishes the OND Sales Program as a permanent part of HUD's single family property disposition program. Through the OND Sales Program, HUD makes HUD-acquired single family homes available to law enforcement officers for purchase at a discount from the list price. A home purchased through the OND Sales Program must be located in a HUD-designated Revitalization Area or HUD-approved exception area, and the law enforcement officer must agree to own and live in the home as his or her sole residence for a specified period of time. Governmental entities and private nonprofit organizations may also purchase homes through the OND Sales Program, if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the OND Sales Program.

DATES: Effective Date: August 2, 1999.

Comments Due Date: August 31, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of the General Counsel, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Asset Management Division, Office of Insured Single Family Housing, Room

9286, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000; telephone (202) 708-1672 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

One of HUD's major goals is to use its resources in a manner that enhances the general well-being of American communities. A critical component of the Nation's housing policy is promoting safe neighborhoods. One means of furthering this policy is to create homeownership opportunities for law enforcement officers, charged with the responsibility of ensuring the safety and well-being of residents, in the communities they serve. A second means is to help promote safe neighborhoods by furthering the community policing efforts being made by numerous cities. In order to support these efforts, HUD developed the Officer Next Door Sales Program (OND Sales Program).

HUD initiated the OND Sales Program on August 11, 1997, through the issuance of HUD Notice H-97-51. On December 31, 1997, HUD issued Notice H-97-73, which expanded the definition of law enforcement officer in order to increase the number of law enforcement officers eligible to participate in the OND Sales Program. On January 12, 1998 (63 FR 1886) a notice was published in the **Federal Register** that described the OND Sales Program policies and procedures contained in HUD Notices H-97-51 and H-97-53.

Since 1997, the OND Sales Program has been operated as a temporary program under HUD's authority to make single family properties available under 24 CFR part 291 (entitled "Disposition of HUD-Acquired Single Family Property") and through a series of regulatory waivers authorized by the Assistant Secretary for Housing-Federal Housing Commissioner. Section 7(q) of the Department of Housing and Urban Development Act, as amended by section 106 of the Department of Housing and Urban Development Reform Act (42 U.S.C. 3535(q)), requires that HUD publish quarterly **Federal Register** notices of all regulatory waivers it has approved. The latest regulatory waiver issued by HUD regarding the OND Sales program was published on March 12, 1999 (64 FR 12676, 12678).

II. The OND Sales Program

Through the OND Sales Program, HUD makes HUD-acquired single family homes, located in HUD-designated Revitalization Areas or HUD-approved exception areas, available to law enforcement officers for purchase at a substantial discount from the list price. Currently the discount rate for the OND Sales Program is 50% off the list price.

In addition, by allowing selected homes to be purchased with mortgages insured by the Federal Housing Administration (FHA), HUD makes it possible for a law enforcement officer to purchase a home with a very low down payment. In order to qualify for this low down payment, a selected home must be eligible for FHA financing. Currently, law enforcement officers may purchase an FHA eligible home with an FHA-insured mortgage, through the OND Sales Program, with a downpayment of \$100.

A law enforcement officer is defined, under the OND Sales Program, as (1) an individual who is employed full-time by a Federal, state, county, or municipal government and in carrying out such full-time employment is (2) sworn to uphold, and make arrests for violations of, Federal, state, county, or municipal law. A law enforcement officer, participating in the OND Sales program, must agree to own and live in the home as his or her sole residence for a set period of time. This period of time is called the owner-occupancy term. Currently, the owner-occupancy term is 3 years. The law enforcement officer must also agree to certify initially and once annually, for each year of the owner-occupancy term, that (1) he or she owns and lives in the home as his or her sole residence and that (2) he or she does not own any other residential real property other than the home purchased through the OND Sales Program.

In addition, law enforcement officers will have to agree to execute a second mortgage and note on the home. Under the second mortgage, the law enforcement officer will not be required to make any monthly payments, nor will any interest accrue. This second mortgage will have the same term as the owner-occupancy term. The amount of the second mortgage will be the difference between the list price of the home and the discounted selling price. The amount owed on the second mortgage will be reduced, according to a schedule established by HUD, periodically over the owner-occupancy term. At the end of the owner-occupancy term, the amount of the second mortgage will be zero. If a law

enforcement officer fails to meet any of the continuing obligations of the OND Sales Program, he or she will owe HUD the amount due on the second mortgage. In addition, HUD may take one or more actions, including but not limited to: (1) issuance of a limited denial of participation for FHA programs, (2) referral to the HUD Inspector General for investigation, and (3) reporting to the law enforcement officer's employing agency.

Governmental entities and private nonprofit organizations may also purchase homes through the OND Sales Program, if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the OND Sales Program. Governmental entities and private nonprofit organizations may participate in the OND Sales Program by either (1) assigning the sales contract to a qualified law enforcement officer before or at the time of closing or (2) participating in a three party closing with the qualified law enforcement officer.

III. For More Information About the OND Sales Program

Law enforcement officers, governmental entities, private nonprofit organizations, and other interested persons can receive more information about the OND Sales Program by calling (800) 217-6970 or by visiting HUD's Web site at <http://www.hud.gov>.

IV. Changes From the January 12, 1998 Federal Register Notice

This interim rule reflects the following changes to the OND Sales Program as it was described in the January 12, 1998 **Federal Register** notice:

A. Second Mortgage

To qualify to purchase a home through the OND Sales Program, a law enforcement officer must agree to execute a second mortgage and note. Previously, the OND Sales Program only required the inclusion of a covenant in the deed. If a law enforcement officer fails to meet the continuing obligations of the OND Sales Program, the amount of the second mortgage will be due and payable. The amount of the second mortgage will be reduced, according to a schedule established by HUD, periodically over the owner-occupancy term.

B. Initial and Annual Certification

In order to continue to be eligible for the OND Sales Program, a law enforcement officer must certify initially and once annually, for each year of the

owner-occupancy term, that he or she continues to own and live in the home as his or her sole residence, and that the law enforcement officer does not own any other residential real property.

C. Multiple Homes

During the entire duration of the owner-occupation term, a law enforcement officer may not own any other residential real property other than the home purchased through the OND Sales Program.

D. Single-Unit Homes

Only single-unit homes are eligible for purchase through the OND Sales Program.

V. This Interim Rule

This interim rule establishes the OND Sales Program as a permanent part of HUD's single family property disposition program. Specifically, the interim rule creates a new subpart F in 24 CFR part 291 that codifies the policies and procedures concerning the OND Sales Program.

VI. Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

The OND Sales Program has been operating as a temporary program since August 11, 1997, using HUD's existing authority under the single family property disposition program regulations at 24 CFR part 291 and through the issuance of a series of waivers. In addition, HUD published the January 12, 1998 **Federal Register** notice publicizing the details of the OND Sales Program.

While this interim rule makes certain revisions to the OND Sales Program, the basic structure of the program remains principally unchanged from that published in the January 12, 1998 **Federal Register** notice. The primary purpose of this interim rule is to change the status of the OND Sales Program from a temporary program to a permanent part of HUD's single family property disposition program. The interim rule codifies the current policies

and procedures concerning the OND Sales Program in a new subpart F in 24 CFR part 291. Accordingly, HUD has determined that it is unnecessary to solicit prior notice and comment before issuing this rule for effect.

Although HUD is issuing this rule for effect, it welcomes public comment on the amendments made by the rule. HUD has, therefore, issued these regulations on an interim basis and has provided the public with a 60-day comment period. All public comments will be addressed in the final rule.

VII. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538)(UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This interim rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of UMRA.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule and in so doing certifies that this interim rule would not have a significant economic impact on a substantial number of small entities.

This interim rule promotes safe neighborhoods by enabling law enforcement officers to purchase HUD-acquired single family homes at a significant discount. The interim rule places restrictions on the use of a home purchased through the Officer Next Door Sales Program, which affects the individual purchasing the home. The interim rule, however, does not place restrictions on any small entities involved in any transactions related to the Officer Next Door Sales Program.

While we have determined that this rule would not have a significant

economic impact on a substantial number of small entities, we welcome any comments regarding alternatives to this rule that would meet our objectives, as described in this preamble, and would be less burdensome to small entities.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (entitled "Federalism") has determined that the policies contained in this interim rule do not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim rule codifies the procedures governing the OND Sales Program in a new subpart in HUD's single family property disposition program regulations. Through the OND Sales Program, HUD makes HUD-acquired single family homes available to law enforcement officers for purchase at a significant discount. As a result, this interim rule is not subject to review under the Order.

List of Subjects in 24 CFR Part 291

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

Accordingly, for the reasons stated in the preamble, 24 CFR part 291 is amended as follows:

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

1. The authority citation for 24 CFR part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

2. Subpart F is added to read as follows:

Subpart F—Officer Next Door Sales Program

Sec.

291.500 What is the purpose of the Officer Next Door Sales Program?

291.510 How does the Officer Next Door Sales Program work?

291.520 How do I qualify to purchase a home through the Officer Next Door Sales Program?

291.530 Who qualifies as a law enforcement officer?

291.540 What is the owner-occupancy term?

291.550 What is the second mortgage?

291.560 May I purchase a multi-unit property through the Officer Next Door Sales Program if I plan to live in one of the units as my sole residence?

291.570 What continuing obligations apply to me if I purchase a home through the Officer Next Door Sales Program?

291.580 May governmental entities and private nonprofit organizations purchase homes through the Officer Next Door Sales Program?

291.590 How are the terms governmental entities and private nonprofit organization defined?

Subpart F—Officer Next Door Sales Program

§ 291.500 What is the purpose of the Officer Next Door Sales Program?

The purpose of the Officer Next Door Sales Program is to promote safe neighborhoods by encouraging law enforcement officers to purchase, and live in as their sole residence, homes located in economically distressed neighborhoods.

§ 291.510 How does the Officer Next Door Sales Program work?

(a) The Officer Next Door Sales Program enables a full-time law enforcement officer to purchase a HUD-acquired home located in a HUD-designated Revitalization Area or HUD-approved exception area:

(1) At a discount from the list price; and

(2) With a reduced downpayment, if:

(i) The home is eligible for an FHA-insured mortgage; and

(ii) The law enforcement officer chooses to finance the home through an FHA-insured mortgage, and is qualified to obtain such a mortgage.

(b) Under the Officer Next Door sales Program, all properties acquired by HUD (both those that are eligible for FHA mortgage insurance and those that are not eligible) located in HUD-designated Revitalization Areas are made available to interested law enforcement officers, government entities, and nonprofit organizations prior to listing the properties for sale to the general public. Purchasers must notify HUD of their geographic area of interest and will be given five (5) days to indicate their preliminary interest in a specific property as more fully explained in § 291.210(a).

§ 291.520 How do I qualify to purchase a home through the Officer Next Door Sales Program?

To qualify to purchase a home through the Officer Next Door Sales Program you must:

(a) Be a full-time law enforcement officer as described in § 291.530;

(b) Agree to own, and live in as your sole residence, the home for the entire duration of the owner-occupancy term;

(c) Agree to execute a second mortgage and note on the home as described in § 291.550 for the difference between the list price and the discounted selling price;

(d) Agree that you will not own any residential real property, other than the home you purchase through the Officer Next Door Sales Program, during the owner-occupancy period.

§ 291.530 Who qualifies as a law enforcement officer?

You qualify as a law enforcement officer, for the purposes of the Officer Next Door Sales Program, if you are:

(a) Employed full-time by a Federal, state, county, or municipal government; and

(b) In carrying out such full-time employment, you are sworn to uphold, and make arrests for violations of, Federal, state, county, or municipal law.

§ 291.540 What is the owner-occupancy term?

The owner-occupancy term is the number of years a participant in the Officer Next Door Sales Program must agree to own, and live in as their sole residence, a home purchased through the Officer Next Door Sales Program. The owner-occupancy term is determined by HUD.

§ 291.550 What is the second mortgage?

The second mortgage is a mortgage and note on the home you purchase through the Officer Next Door Sales Program. The amount of the second mortgage is the difference between the list price of the home and the discounted selling price. The second mortgage will have the same term as the owner-occupancy term. The amount of the second mortgage will be reduced, according to a schedule established by HUD, periodically over the owner-occupancy term. If you fail to meet any of the continuing obligations of the OND Sales Program, you will owe HUD the amount due on the second mortgage. At the end of the owner-occupancy term, the amount of the second mortgage will be zero.

§ 291.560 May I purchase a multi-unit property through the Officer Next Door Sales Program if I plan to live in one of the units as my sole residence?

No, only single-unit properties are eligible for the Officer Next Door Sales Program.

§ 291.570 What continuing obligations apply to me if I purchase a home through the Officer Next Door Sales Program?

To remain a participant in the Officer Next Door Sales Program you must, for the entire duration of the owner-occupancy term:

(a) Continue to own, and live in as your sole residence, the home you purchased through the Officer Next Door Sales Program;

(b) Not own any other residential real property other than the home you purchased through the Officer Next Door Sales Program; and

(c) Certify initially and once annually that paragraphs (a) and (b) of this section continue to be true.

§ 291.580 May governmental entities and private nonprofit organizations purchase homes through the Officer Next Door Sales Program?

Yes, governmental entities and private nonprofit organizations may purchase homes through the Officer Next Door Sales Program, if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the Officer Next Door Sales Program. In order to participate, governmental entities and private nonprofit organizations must either:

(a) Assign the sales contract to a qualified law enforcement officer before, or at the time of, closing; or

(b) Participate in a three party closing with the qualified law enforcement officer.

§ 291.590 How are the terms governmental entities and private nonprofit organization defined?

The terms *Governmental entities* and *Private nonprofit organization* are defined in § 291.5 of this part.

Dated: June 8, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

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