



REGULATORY INTERPRETATION 2000-RI-04 AND NO-ACTION POSITION

Date: May 26, 2000

Subject: Treatment of Mobile Home Park Projects Under the Affordable Housing Program (AHP) Regulation

Request Summary/Background:

This regulatory interpretation is in response to questions from a number of Federal Home Loan Banks (Banks) on whether AHP-funded projects involving mobile home parks should be considered owner-occupied projects or rental projects under the AHP Regulation. *See* 12 C.F.R. part 951.

Analysis:

Section 10(j)(2) of the Federal Home Loan Bank Act (Bank Act), which governs the operation of the AHP, provides that members of Banks may use AHP subsidies to –

(A) Finance homeownership by families with incomes at or below 80 percent of the median income for the area; or

(B) Finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term.

See 12 U.S.C. § 1430(j)(2) (emphasis added). Under the applicable statutory provisions, the AHP subsidy must be used to finance the costs of the purchase, construction or rehabilitation of owner-occupied housing or rental housing.¹ Thus, the determination of whether an AHP funded project constitutes owner-occupied housing or rental housing under the AHP Regulation depends upon the actual use of the AHP subsidy.

1. AHP Subsidy Used for Acquisition, Development or Improvement of Rental Pads Underlying Mobile Home Units, or for Acquisition, Construction or Rehabilitation of Rental Mobile Home Units

Where AHP funds are used in a project for the acquisition, development or improvement of pads, including utility hookups and non-permanent foundations, that subsequently are rented to AHP income-eligible occupants of mobile home units that are placed on the pads, the project qualifies

¹ The predecessor regulation to the current AHP Regulation also provided that AHP funds could only be used for “direct costs” required to produce and/or finance affordable housing units. *See* 12 C.F.R. § 960.3(c) (1996).

as rental housing under the AHP Regulation, regardless of the ownership status of the mobile home units situated on the rental pads. Consequently, the project is subject to the scoring, retention period, affordability, monitoring, and other requirements specifically applicable to rental projects under the AHP Regulation. *See* 12 C.F.R. §§ 951.1 (definition of “retention period” for rental project), 951.5(b), 951.6(b)(4), 951.10(a)(2), (b)(2) and (c)(2), and 951.11. Thus, for example, at least 20 percent of the mobile home units located on the rental pads in the project must be occupied by and affordable for very low-income households (20 percent requirement), *see* 12 C.F.R. §§ 951.1 (definitions of “affordable” and “rental project”) and 951.5(b)(1), and the applicable retention period is 15 years from the date of project completion, *see* 12 C.F.R. §§ 951.1 (definition of “retention period” for rental project), 951.13(c)(5) and 951.13(d)(2). Where the rental pads underlie owner-occupied mobile home units, only the rental cost of the pad is used in calculating the AHP affordability requirement. *See* 12 C.F.R. § 951.1 (definition of “affordable”).

Where AHP funds are used in a project for the acquisition, construction or rehabilitation of mobile home units for rental to AHP income-eligible households, the project qualifies as rental housing under the AHP Regulation. The rental cost of the mobile home unit is used in calculating the AHP affordability requirement. Where the AHP funds are used to provide both rental pads and rental mobile home units on the pads, the combined rent for both the pad and the mobile home unit is used to calculate the AHP affordability requirement.

2. AHP Subsidy Used as Downpayment or Closing Cost Assistance for Acquisition of Owner-Occupied Mobile Home Units Situated on Rental Pads, or for Acquisition, Development or Improvement of Owner-Occupied Pads

Where AHP funds are used in a project as downpayment or closing cost assistance for the acquisition by AHP income-eligible households of owner-occupied mobile home units that are situated on rental pads, the project qualifies as owner-occupied housing under the AHP Regulation. Even though the mobile home units are located on rental pads, the AHP subsidy is not being used for the acquisition, development or improvement of the rental pads, but rather to assist households in purchasing the mobile home units themselves. Consequently, the project is subject to the scoring, retention period, income-eligibility, monitoring and other requirements specifically applicable to owner-occupied projects under the AHP Regulation. *See* 12 C.F.R. §§ 951.1 (definition of “retention period” for owner-occupied projects), 951.5(b), 951.6(b)(4) and 951.10(a)(1), (b)(1) and (c)(1). Thus, for example, at project completion, the mobile home units must be occupied by very low- or low- or moderate-income households (the 20 percent requirement for rental projects would not apply), *see* 12 C.F.R. §§ 951.1 (definition of “owner-occupied project”) and 951.5(b)(1), and the retention period is five years from the date of purchase of the mobile home unit (closing), *see* 12 C.F.R. §§ 951.1 (definition of “retention period” for owner-occupied project), 951.13(c)(4) and 951.13(d)(1).

Where AHP funds are used in a project for the acquisition, development or improvement of owner-occupied pads by the owner-occupants of the mobile home units, the project qualifies as owner-occupied housing under the AHP Regulation.

3. AHP Subsidy Used for Both Acquisition, Development or Improvement of Rental Pads, and Acquisition of Owner-Occupied Mobile Home Units

Where AHP funds are used in a project for both the acquisition, development or improvement of rental pads, and for the acquisition of owner-occupied mobile home units by AHP income-

eligible households, the appropriate treatment of the project as owner-occupied or rental housing under the AHP Regulation depends upon the use of a majority of the AHP funds in the project. If a majority of the AHP funds in the project are used for the acquisition, development or improvement of the rental pads, the project qualifies as rental housing under the AHP Regulation. If a majority of the AHP funds in the project are used for the acquisition of the owner-occupied mobile home units by AHP-income eligible households, the project qualifies as owner-occupied housing under the AHP Regulation.

Conclusion:

Whether a mobile home park project is considered to be rental housing or owner-occupied housing under the AHP Regulation depends upon the use of a majority of the AHP funds in the project. If the AHP funds are used in the project only for the acquisition, development or improvement of pads that will be rented to AHP income-eligible occupants of mobile home units, the project qualifies as rental housing under the AHP Regulation, regardless of the ownership status of the mobile home units situated on the rental pads. If the AHP funds are used in the project only for the acquisition, construction or rehabilitation of mobile home units for rental to AHP income-eligible households, the project qualifies as rental housing under the AHP Regulation.

If the AHP funds are used in the project only as downpayment or closing cost assistance for the acquisition by AHP income-eligible households of owner-occupied mobile home units that are situated on rental pads, or for the acquisition, development or improvement of owner-occupied pads by the owner-occupants of the mobile home units, the project qualifies as owner-occupied housing under the AHP Regulation.

If the AHP funds are used in a project for both the acquisition, development or improvement of rental pads, and for the acquisition of owner-occupied mobile home units, the project qualifies as rental housing if a majority of the AHP funds are used for the acquisition, development or improvement of the rental pads, and the project qualifies as owner-occupied housing if a majority of the AHP funds are used for the acquisition of the owner-occupied mobile home units.

No-Action Position:

Finance Board staff will not recommend supervisory or other action to the Board of Directors for any AHP mobile home park projects approved by a Bank prior to its second AHP funding round of 2000 that are not in compliance with the AHP regulatory scoring, retention period, affordability, income-eligibility, monitoring and other AHP regulatory requirements as interpreted by this Regulatory Interpretation.

If you have any questions, please contact Janet M. Fronckowiak, Acting Deputy Director, Program Assistance Division, at (202) 408-2575.

A Regulatory Interpretation applies only to the particular transaction or activity proposed by the requestor, may be relied upon only by the requestor, and is subject to modification or rescission by action of the Board of Directors of the Finance Board. 12 CFR part 907.