



# Federal Register

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Part V

## Department of Housing and Urban Development

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24 CFR Part 245

Tenant Participation in Multifamily  
Housing Projects; Final Rule

## PART 245—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

1. The authority citation for 24 CFR part 245 continues to read as follows:

Authority: 12 U.S.C. 1715z-1b; 42 U.S.C. 3535(d).

### Subpart A—General Provisions

#### § 245.10 [Amended]

2. Amend 24 CFR 245.10 as follows:
- Remove paragraph (a)(2);
  - Remove from paragraph (c) the definition of "Section 202 Loans for the Elderly or Handicapped BMIR Program";
  - Redesignate paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively;
  - Revise redesignated paragraphs (a)(2)(ii) and (a)(3); and
  - Add paragraphs (a)(4)–(7) to read as follows:

#### § 245.10 Applicability of part.

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- \*\*\*
- (ii) Was sold by the Secretary subject to a mortgage insured or held by the Secretary and an agreement to maintain the low- and moderate-income character of the project;

(3) *State or local housing finance agency project.* The project receives assistance under section 236 of the National Housing Act (12 U.S.C. 1715z-1) or the Rent Supplement Program administered through a State or local housing finance agency, but does not have a mortgage insured under the National Housing Act or held by the Secretary. Subject to the further limitation in paragraph (b) of this section, only the provisions of subparts A and C of this part and of subpart D of this part for requests for approval of a conversion of a project from project-paid utilities to tenant-paid utilities or of a reduction in tenant utility allowances, apply to a mortgagor of such a project;

(4) The project receives project-based assistance under section 8 of the United States Housing Act of 1937 (this regulation does not cover tenant participation in PHAs that administer such project-based assistance);

(5) The project receives enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended;

(6) The project receives assistance under the Section 202 Direct Loan program or the Section 202 Supportive Housing for the Elderly program; or

(7) The project receives assistance under the Section 811 Supportive Housing for Persons with Disabilities program.

3. Subpart B is revised to read as follows:

### Subpart B—Tenant Organizations

Sec.

- 245.100 Right of tenants to organize.
- 245.105 Recognition of tenant organizations.
- 245.110 Legitimate tenant organizations.
- 245.115 Protected activities.
- 245.120 Meeting space.
- 245.125 Tenant organizers.
- 245.130 Tenants' rights not to be canvassed.
- 245.135 Enforcement.

### Subpart B—Tenant Organizations

#### § 245.100 Right of tenants to organize.

The tenants of a multifamily housing project covered under § 245.10 have the right to establish and operate a tenant organization for the purpose of addressing issues related to their living environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

#### § 245.105 Recognition of tenant organizations.

Owners of multifamily housing projects covered under § 245.10, and their agents, must:

- Recognize legitimate tenant organizations; and
- Give reasonable consideration to concerns raised by legitimate tenant organizations.

#### § 245.110 Legitimate tenant organizations.

A tenant organization is legitimate if it has been established by the tenants of a multifamily housing project covered under § 245.10 for the purpose described in § 245.100, and meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives.

#### § 245.115 Protected activities.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct the following activities related to the establishment or operation of a tenant organization:

- Distributing leaflets in lobby areas;
- Placing leaflets at or under tenants' doors;
- Distributing leaflets in common areas;
- Initiating contact with tenants;
- Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;
- Posting information on bulletin boards;
- Assisting tenants to participate in tenant organization activities;

(8) Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues; and

(9) Formulating responses to owner's requests for:

- Rent increases;
- Partial payment of claims;
- The conversion from project-based paid utilities to tenant-paid utilities;
- A reduction in tenant utility allowances;
- Converting residential units to non-residential use, cooperative housing, or condominiums;
- Major capital additions; and
- Prepayment of loans.

(b) In addition to the activities listed in paragraph (a) of this section, owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct other reasonable activities related to the establishment or operation of a tenant organization.

(c) Owners of multifamily housing projects and their agents shall not require tenants and tenant organizers to obtain prior permission before engaging in the activities permitted under paragraphs (a) and (b) of this section.

#### § 245.120 Meeting space.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:

- Tenants or a tenant organization and used for activities related to the operation of the tenant organization; or
- Tenants seeking to establish a tenant organization or collectively address issues related to their living environment.

(b) Tenant and tenant organization meetings must be accessible to persons with disabilities, unless this is impractical for reasons beyond the organization's control. If the complex has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

(c) *Fees.* An owner of a multifamily housing project covered under § 245.10 may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed for the use of such facilities in accordance with procedures prescribed by the Secretary, for the use of meeting space. An owner may waive this fee.

**§ 245.125 Tenant organizers.**

(a) A tenant organizer is a tenant or non-tenant who assists tenants in establishing and operating a tenant organization, and who is not an employee or representative of current or prospective owners, managers, or their agents.

(b) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenant organizers to assist tenants in establishing and operating tenant organizations.

(c) *Non-tenant tenant organizers.* (1) If a multifamily housing project covered under § 245.10 has a consistently enforced, written policy against canvassing, then a non-tenant tenant organizer must be accompanied by a tenant while on the property of the multifamily housing project, except in the case of recipients of HUD Outreach and Assistance Training Grants ("OTAG") or other direct HUD grants designed to enable recipients to provide education and outreach to tenants concerning HUD's mark-to-market program (see 24 CFR parts 401 and 402), who are conducting eligible activities as defined in the applicable Notice of Funding Availability for the grant or other effective grant document.

(2) If a multifamily housing project covered under § 245.10 has a written policy favoring canvassing, any non-tenant tenant organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

**§ 245.130 Tenants' rights not to be re-canvassed.**

A tenant has the right not to be re-canvassed against his or her wishes regarding participation in a tenant organization.

**§ 245.135 Enforcement**

(a) Owners of housing identified in § 245.10, and their agents, as well as any principals thereof (as defined in 24 CFR 24.105), who violate any provision of this subpart so as to interfere with the organizational and participatory rights of tenants, may be liable for sanctions under 24 CFR part 24. Such sanctions may include:

(1) *Debarment.* A person who is debarred is prohibited from future participation in Federal programs for a period of time. The specific rules and regulations relating to debarment are found at 24 CFR part 24, subpart C.

(2) *Suspension.* Suspension is a temporary action with the same effect as debarment, to be taken when there is adequate evidence that a cause for debarment may exist and immediate action is needed to protect the public interest. The specific rules and regulations relating to suspension are found at 24 CFR part 24, subpart D.

(3) *Limited Denial of Participation.* An LDP generally excludes a person from future participation in the Federal program under which the cause arose. The duration of an LDP is generally up to 12 months. The specific rules and regulations relating to LDPs are found at 24 CFR subpart G.

(b) These sanctions may also apply to affiliates (as defined in 24 CFR part 24) of these persons or entities.

(c) The procedures in 24 CFR part 24 shall apply to actions under this subpart.

Dated: June 1, 2000.

**William C. Apgar,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

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