

B. Office of General Counsel

The Assistant Secretary for Housing-Federal Housing Commissioner is redelegating authority to the General Counsel to take all actions permitted under 24 CFR 30.45 and 24 CFR 30.36. This action restates, reaffirms, and supersedes the Assistant Secretary's decisions to redelegate the same authority on September 12, 2002, published in the **Federal Register** on December 31, 2002 at 67 FR 79943 and 79944. .

Also on September 12, 2002, the General Counsel redelegated the authority, to staff in the Departmental Enforcement Center (DEC), to take actions under 24 CFR 30.45 and 30.36. See 67 FR 79944 and 79945. That redelegation remains in effect and is not affected by the redelegations issued today. The DEC was recently placed under the Office of the General Counsel and is responsible for carrying out a wide range of HUD enforcement activities. The redelegations issued today promote efficient enforcement operations within the Department. The nature of the authority being redelegated today is set forth below.

HUD regulations at 24 CFR 30.45 authorize the Assistant Secretary for Housing, or his or her designee, to take a civil money penalty action against any mortgagor of a multifamily property with a mortgage insured, co-insured, or held by the Secretary pursuant to Title II of the National Housing Act or against any mortgagor of a property with a mortgage held by the Secretary pursuant to section 202 of the Housing Act of 1959. Section 30.45 refers to the statutory provisions enumerating the violations for which the Assistant Secretary may impose a penalty upon those mortgagors. (See 12 U.S.C. 1701q-1(b) and (c), and 12 U.S.C. 1735f-15(b) and (c).)

HUD regulations at 24 CFR 30.36 authorize the Assistant Secretary for Housing, or the Assistant Secretary's designee, to take a civil money penalty action against any principal, officer or employee of a mortgagee or lender, or other participant, in either a mortgage insured under the National Housing Act (Act) or any loan that is covered by a contract of insurance under Title I of the Act, or any provider of assistance to a borrower in connection with any such mortgage or loan, including sellers, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, dealers, consultants, contractors, subcontractors and inspectors. Section 30.36 also identifies the violations for which the Assistant

Secretary may impose a penalty. (See also 12 U.S.C. 1735f-14.)

In addition, the Assistant Secretary is redelegating the authority to the General Counsel to issue (1) a notice of violation under the terms of a regulatory agreement and/or (2) a notice of default under the terms of a section 8 housing assistance contract. HUD regulations at 24 CFR 30.68 authorize the Assistant Secretary for Housing or his or her designee, and the Assistant Secretary for Public and Indian Housing, or his or her designee, to initiate civil money penalty actions against any owner, any general partner of a partnership owner, or any agent employed to manage the property that has an identity of interest with the owner or the general partner or a partnership owner of a property receiving project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), for a knowing and material breach of a housing assistance payments contract.

Violations of a project regulatory agreement can result in serious sanctions being imposed against a project owner. A notice of violation of the regulatory agreement provides an owner with both a notice of violations and the opportunity to remedy the violations. If violations are not remedied, the Office of Housing can impose sanctions upon a project owner including making a request that a lender declare a default under the project's insured mortgage. Similarly, violations of the terms of a housing assistance contract, if not remedied, can lead to serious consequences, including a decision by the Office of Housing to abate, terminate or redirect housing assistance funds. Notices of violations under regulatory agreements and defaults under housing assistance contracts address project owners who fail to maintain their properties in accordance with HUD requirements.

Finally, the delegation of authority, noticed today, does not affect the authority of the Mortgagee Review Board, described in 24 CFR 30.35, or the Assistant Secretary for Housing, to initiate civil money penalty actions.

Section II. Authority Redelegated

The Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner retain and redelegate, to the officials listed below, the power and authority described as follows:

A. Assistant Secretary, Office of Fair Housing and Equal Opportunity

Authority is redelegated on a nationwide basis to exercise the Fair Housing

provisions of FHEFSSA at 12 U.S.C. 4545, and under the regulations at 24 CFR part 81, subpart C, as described in the **Federal Register** notice of delegation of February 12, 1999 (64 FR 7407) and subject to the limitations and/or exceptions set forth therein.

B. General Counsel, Office of the General Counsel

Authority is redelegated to the General Counsel to take all actions permitted under 24 CFR 30.45, 24 CFR 30.36, and 24 CFR 30.68 to issue (1) a notice of violation under the terms of a project regulatory agreement and (2) a notice of default under a section 8 housing assistance contract.

Section III. Authority Excepted

The authority delegated in Section II. does not include the authority to waive regulations under the program jurisdiction of the Assistant Secretary for Housing.

Section IV. Further Redelegations

A. The authority redelegated to the Assistant Secretary for the Office of Fair Housing and Equal Opportunity may not be redelegated.

B. The General Counsel is authorized to redelegate the authority redelegated in section II.B. above.

Section V. Prior Delegations Revoked and/or Superseded

The delegations of authority to the General Counsel, issued on December 31, 2002 are hereby superseded.

Section VI. Revocation of Authority

The Assistant Secretary for Housing-Federal Housing Commissioner may revoke the authority authorized herein, in whole or part, at any time. Any revocation or modification of a redelegation will be published in the **Federal Register**.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 11, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

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