

Opinion by Counsel to the
Mortgagor (FHA)

**U.S. Department of Housing and
Urban Development**
Federal Housing Administration
Office of General Counsel

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For use in FHA-Insured Transactions

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This information is required by 24 CFR 200.45, 200.46, and 200.60 through 200.78. The information will be used to assure that the mortgagor or owner entity has been validly formed, lawfully exists, and that the security property and the construction thereupon comply with appropriate local laws. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

APRIL 2003

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION**

GUIDE FOR

OPINION OF MORTGAGOR'S COUNSEL

{TO BE TYPED ON FIRM LETTERHEAD}

{INSERT DATE OF ENDORSEMENT}

Re: Project Name _____
FHA Project No. _____
Location _____
Mortgagor

[MORTGAGEE]
[ADDRESS]

[MORTGAGEE'S ATTORNEY]
[ADDRESS]

FEDERAL HOUSING COMMISSIONER

{INSERT APPROPRIATE FIELD OFFICE ADDRESS}

Ladies and Gentlemen:

We are [I am] [general/special] counsel to _____ **{INSERT NAME OF MORTGAGOR}** (the "Mortgagor"), a _____, **{INSERT TYPE OF ENTITY}** organized under the laws of the State of _____ **{INSERT STATE}** (the "Organizational Jurisdiction"), in connection with a mortgage loan (the "Loan") in the [original/ increased] principal amount of _____ Dollars (\$_____) from _____ **{INSERT NAME AND TYPE OF MORTGAGEE}** (the "Mortgagee") to the Mortgagor. The proceeds of the Loan will be used to [construct/rehabilitate/purchase/ refinance] that certain [multifamily housing/ hospital/ extended care facility/nursing home/board and care] project (the "Project"), commonly known as _____ and located in _____ **{INSERT COUNTY AND STATE}** (said State to be referred to hereinafter as the "Property Jurisdiction") on the property described in Exhibit B **{ATTACH LEGAL DESCRIPTION}** (together with all improvements and fixtures thereon) (the "Property"). The Loan is being insured by the Federal Housing Administration (FHA), an organizational unit of the United States Department of Housing and Urban Development ("HUD"), pursuant to a commitment for insurance [of advances **OR** upon completion **OR** for refinancing] issued to Mortgagee by _____, Agent of the Federal Housing Commissioner, dated _____ [as amended by that certain letter from _____ to _____, dated _____] ("FHA Commitment"). The Loan is being funded from _____ **{DESCRIBE FINANCING SOURCE, e.g., tax-exempt bonds/mortgage backed securities guaranteed by GNMA/ participation certificates, etc.}** The Mortgagor has requested that we [I] deliver this opinion and has consented to reliance by Mortgagee's counsel in rendering its opinion to Mortgagee and to reliance by Mortgagee and HUD in making and insuring, respectively, the Loan and has waived any privity between Mortgagor and us [me] in order to permit said reliance by Mortgagee, counsel to Mortgagee and HUD. We [I] consent to reliance on this opinion by Mortgagee, counsel to Mortgagee, and HUD.

In our [my] capacity as [general/special] counsel to the Mortgagor, we [I] have prepared or reviewed the following:

- A. The [**{DESCRIBE ORGANIZATIONAL DOCUMENTS, e.g. for corporations: State certified copies of the articles of incorporation, the by-laws, the borrowing resolution, the incumbency certificate and the good standing certificate(s), fictitious Name Registration, Foreign Corporation Registration; for partnerships: certified copies of the partnership agreement and any amendments thereto, the certificate of limited partnership, and any amendments thereto, the good standing certificate (or its equivalent) if provided in the Organizational Jurisdiction, etc.}**] of the Mortgagor (collectively, the "Organizational Documents");
- B. The FHA Commitment [extensions and assignment(s) thereof, if any];

C. The Commitment issued by the Mortgagee and accepted by the Mortgagor, dated _____, (the "Loan Commitment");

D. The Regulatory Agreement (_____) **{INSERT APPROPRIATE FORM NO.}** by and between HUD and the Mortgagor, dated _____, (the "Regulatory Agreement");

E. The Note (_____) **{INSERT APPROPRIATE FORM NO.}** [in the original principal amount of _____ Dollars (\$_____) **OR** in the increased principal amount of _____ Dollars (\$_____) by Mortgagor in favor of Mortgagee, dated _____, (the "Note");

F. [The Mortgage **OR** Deed of Trust] (_____) **{INSERT APPROPRIATE FORM NO.}**, executed by Mortgagor for the benefit of Mortgagee, granting a security interest in the Property, dated _____, (the "Mortgage");

G. **{INSERT THE NUMBER OF UCC's TO BE FILED}** Uniform Commercial Code Financing Statements executed by the Mortgagor as debtor and naming the Mortgagee and HUD as secured parties or as their interests may appear, to be filed in _____, **{INSERT LOCATION(S)}** (the Filing Offices), upon the **{DESCRIBE EVENTS}** (the "Financing Statements");

H. The Security Agreement by and between Mortgagor and the Mortgagee, granting a security interest under the Uniform Commercial Code, in those items of personalty described therein, dated _____, (the "Security Agreement");

[I. **{TO BE INSERTED IF THE MORTGAGE IS ON A LEASEHOLD ESTATE}** The Ground Lease executed by _____ **{INSERT LESSOR}** as lessor and Mortgagor as lessee recorded in the land records of _____, dated _____, (the "Ground Lease").]

[J. **{TO BE INSERTED FOR CONSTRUCTION/REHABILITATION LOANS}** The Building Loan Agreement (2441) executed by Mortgagee and Mortgagor, dated _____, (the "Building Loan Agreement").]

[K. **{TO BE INSERTED FOR CONSTRUCTION/REHABILITATION LOANS}** The Construction Contract [Lump Sum (2442) or Cost Plus (2442-A)] executed by _____ (the "General Contractor") and Mortgagor, dated _____ (the "Construction Contract").]

L. The Mortgagee's Certificate (2434), executed by the Mortgagee, dated _____.

M. The Mortgagor's Certificate (2433), executed by the Mortgagor, dated _____.

N. The Agreement and Certification (3305 or 3305A or 3306 or 3306A), executed by the Mortgagor, dated _____.

O. The Mortgagor's Oath (2478), executed by the Mortgagor, dated _____.

P. The Mortgagor's Opinion Certification, pertaining to factual matters relied on by us [me] in rendering this opinion, executed by the Mortgagor, dated _____, a copy of which is attached hereto as Exhibit __ (the "Certification of Mortgagor").

Q. A search conducted by _____ dated _____ **{no earlier than 30 days before this opinion}** of the financing records of the county and Property Jurisdiction [and Organizational Jurisdiction] (the "UCC Search").

[R. A receipt from the insurance company providing flood insurance evidencing payment for the premium, dated _____, (the "Flood Insurance Receipt").]

S. The Title Insurance Policy [or date-down if appropriate in a refinancing, for example] issued by _____ **{acceptable company under HUD's regulations}**, together with all endorsements, and naming HUD and the Mortgagee as insureds as their interests may appear, dated _____, (the "Title Policy").

[T. The following documents evidencing zoning compliance, _____, **{DESCRIBE ALL DOCUMENTS FULLY}** (the "Zoning Certificate").]

[U. The building permit(s) issued on _____ by] _____ (the "Building Permit").

[V. The following permits, _____, **{DESCRIBE PERMITS}** which are required for the operation of the project, issued by _____ on _____ ("Other Permits").]

[W. The Surveyor's Plat **OR** Survey showing completed project, prepared by _____, dated _____, (the "Survey").]

X. The Surveyor's Report (2457), executed by _____, dated _____, (the "Surveyor's Report").

[Y. The deferred note (1710, 1712 or 2223) executed by Mortgagor in favor of _____, dated _____, (the "Deferred Note").]

[Z. The Performance Bond (2452) and the Payment Bond (2452-A) issued by _____ (Surety) to secure payment and performance of _____ (General Contractor) and running to _____ **OR** the Completion Assurance Agreement (2450) executed by the General Contractor, dated _____, (the "Assurance of Completion").]

[AA. The Owner-Architect Agreement (AIA B181 with HUD Supplement) executed by _____ **{INSERT DESIGN AND/OR CONSTRUCTION ARCHITECT}** and Mortgagor, dated _____, (the "Owner-Architect Agreement").]

[BB. The Off-Site Bond (2479) issued by _____ (Surety) to secure the completion of off-site work by _____ (General Contractor) and running to the Mortgagee and HUD **OR** Escrow Agreement for Off-Site Facilities (2446) with Schedule "A" executed by _____ dated _____ (the "Assurance of Completion of Off-Site Facilities").]

[CC. The following documents assuring water, electricity, sewer, gas, heat or other utility services (the "Assurance of Utility Services"):
_____ **{DESCRIBE FULLY}**.]

[DD. The Contractor's and/or Mortgagor's Cost Breakdown (2328) executed by the General Contractor, dated _____, (the "Cost Breakdown").]

[EE. The Latent Defects Bond (3259) issued by _____ and securing the performance of the General Contractor and running to the Mortgagee and HUD **OR** Escrow executed by _____, dated _____ (the "Guarantee against Latent Defects").]

[FF. The Escrow Deposit Agreement for Incomplete On-Site Improvements (2456) with Schedule A executed by the General Contractor, dated _____, (the "On-Site Deposit Escrow").]

[GG. The Contractor's Prevailing Wage Certificate (2403-A) executed by _____, dated _____, (the "Contractor's Prevailing Wage Certificate").]

HH. The Request for Endorsement of Credit Instrument (2023) and/or Certificate of Mortgagor and Mortgagee (2455) executed by the Mortgagor and the Mortgagee, dated _____, (the "Request for Endorsement").
{MODIFY AS APPROPRIATE FOR INSURANCE UPON COMPLETION, REFINANCINGS, ETC.}

[II. The Operating Deficit Escrow (2476a) executed by _____, dated _____, (the "Operating Deficit Escrow").]

[JJ. The Repair Escrow executed by _____, dated _____, (the "Repair Escrow").]

[KK. All documents executed by Mortgagor and any State or local government entity pertaining to development of the Property (the "Public Entity Agreement").]

[LL. The following documents executed or delivered in connection with the financing of the loan with the proceeds of bonds exempt from federal taxation: _____ **{LIST DOCUMENTS IN ACCORDANCE WITH INSTRUCTIONS}** (the "Bond Documents").]

MM. The Good Standing Certificate(s) **{SEE "A" ABOVE}** issued by [Organizational Jurisdiction **OR** Property Jurisdiction , if different], dated _____ **{DATE INSERTED MUST BE WITHIN 30 DAYS OF THE DATE OF ENDORSEMENT}**, (the "Good Standing Certificate").

[NN. The certificate executed by _____ **{INSERT ARCHITECT OR OTHER PROFESSIONAL}**, dated _____, (the "Certificate").]

OO. A search conducted by _____ dated [no earlier than 30 days before this opinion] of the public records of the federal District Court and State and local courts in: (i) the jurisdiction where the Property is located; (ii) the jurisdiction(s) where the Mortgagor is located and does business; and (iii) the jurisdiction where the general partner of the Mortgagor is organized (the "Docket Search").

NOTE: Numerical references in parentheses above are to FHA and HUD form numbers.

The documents listed in B through I above are referred to collectively as the "Loan Documents." The documents listed in J through OO are referred to collectively as the "Supporting Documents." The documents listed in A through OO are referred to collectively as the "Documents."

In basing the several opinions set forth in this document on "our [my] knowledge," the words "our [my] knowledge" signify that, in the course of our [my] representation of the Mortgagor, no facts have come to our [my] attention that would give us [me] actual knowledge or actual notice that any such opinions or other matters are not accurate. Except as otherwise stated in this opinion, we [I] have undertaken no investigation or verification of such matters. Further, the words "our [my] knowledge" as used in this opinion are intended to be limited to the actual knowledge of the attorneys within our [my] firm who have been involved in representing the Mortgagor in any capacity including, but not limited to, in connection with this Loan. We [I] have no reason to believe that any of the documents on which we [I] have relied contain matters which, or the assumptions contained herein, are untrue, contrary to known facts, or unreasonable.

In reaching the opinions set forth below, we [I] have assumed, and to our [my] knowledge there are no facts inconsistent with, the following:

(a) Each of the parties to the Documents, other than the Mortgagor (and any person executing any of the Documents on behalf of the Mortgagor), has duly and validly executed and delivered each such instrument, document, and agreement to be executed in connection with the Loan to which such party is a signatory, and such party's obligations set forth in the Documents are its legal, valid, and binding obligations, enforceable in accordance with their respective terms.

(b) Each person executing any of the Documents, other than the Mortgagor (and any person executing any of the Documents on behalf of the Mortgagor), whether individually or on behalf of an entity, is duly authorized to do so.

(c) Each natural person executing any of the Documents is legally competent to do so.

(d) All signatures of parties other than the Mortgagor (and any person executing any of the Documents on behalf of Mortgagor) are genuine.

(e) All Documents which were submitted to us [me] as originals are authentic; all Documents which were submitted to us [me] as certified or photostatic copies conform to the original document, and all public records reviewed are accurate and complete.

(f) All applicable Documents have been duly filed, indexed, and recorded among the appropriate official records and all fees, charges, and taxes due and owing as of this date have been paid.

(g) The parties to the Documents and their successors and/or assigns will: (i) act in good faith and in a commercially reasonable manner in the exercise of any rights or enforcement of any remedies under the Documents; (ii) not engage in any conduct in the exercise of such rights or enforcement of such remedies that would constitute other than fair and impartial dealing; and (iii) comply with all requirements of applicable procedural and substantive law in exercising any rights or enforcing any remedies under the Documents.

(h) The exercise of any rights or enforcement of any remedies under the Documents would not be unconscionable, result in a breach of the peace, or otherwise be contrary to public policy.

(i) The Mortgagor has title or other interest in each item of (i) real and (ii) tangible and intangible personal property ("Personalty") comprising the Property in which a security interest is purported to be granted under the Loan Documents [and, where Personalty is to be acquired after the date hereof, a security interest is created under the after-acquired property clause of the Security Agreement].

In rendering this opinion we [I] also have assumed that the Documents accurately reflect the complete understanding of the parties with respect to the transactions contemplated thereby and the rights and the obligations of the parties thereunder. We [I] also have assumed that the terms and the conditions of the Loan as stated in the Documents have not been amended, modified or supplemented, directly or indirectly, by any other agreement or understanding of the parties or waiver of any of the material provisions of the Documents. After reasonable inquiry of the Mortgagor, we [I] have no knowledge of any facts or information that would lead us [me] to believe that the assumptions in this paragraph are not justified.

In rendering our [my] opinion in paragraph 13, we [I] also have assumed that: (i) all Personalty in which a security interest is created under the Documents (other than accounts or goods of a type normally used in more than one jurisdiction) is located at the Property and (ii) Mortgagor's [Chief Executive Office] [only place of business] [residence] is located in _____. After reasonable inquiry of the Mortgagor, we [I] have no knowledge of any facts or information that would lead us [me] to believe that the assumptions in this paragraph are not justified.

In rendering this opinion, we [I] have, with your approval, relied as to certain matters of fact set forth in the Certification of Mortgagor, the Good Standing Certificate(s) [and certain other specified Documents,] as set forth herein. After reasonable inquiry of the Mortgagor as to the accuracy and completeness of the Certification of Mortgagor, the Good Standing Certificate(s), [and such other Documents], we [I] have no knowledge of any facts or information that would lead us [me] to believe that such reliance is not justified.

Based on the foregoing and subject to the assumptions and qualifications set forth in this letter, it is our [my] opinion that:

{TO BE USED IN CASES WHERE ORGANIZATIONAL DOCUMENTS WERE PREPARED BY MORTGAGOR'S ATTORNEY}

1. The Mortgagor is a _____ **{INSERT TYPE OF ENTITY}** duly organized and validly existing under the laws of the Organizational Jurisdiction. The Mortgagor is duly qualified to do business and, based solely on the Certificate(s) of Good Standing, copy attached hereto as Exhibit [___], is in good standing under the laws of the Organizational Jurisdiction, [and is qualified to do business as a foreign _____ entity in the Property Jurisdiction based on a review of _____.]

{OR, IF THE MORTGAGOR IS A TRUST}

The Mortgagor is _____ **{INSERT NAME OF THE TYPE OF TRUST}** duly formed and validly existing under the laws of the Organizational Jurisdiction [, and is qualified to do business as a foreign _____ entity in the Property Jurisdiction].

{AND, IF THE GENERAL PARTNER OF A PARTNERSHIP MORTGAGOR IS AN ENTITY}

The general partner of the Mortgagor is a _____ **{INSERT TYPE OF ENTITY}**, duly organized, validly existing and, based solely on the Certificate(s) of Good Standing, copy attached hereto as Exhibit [___], in good standing under the laws of the Organizational Jurisdiction [and is qualified to do business as a foreign _____ **{INSERT TYPE OF ENTITY}** in the Property Jurisdiction].

{TO BE USED IN CASES, PRINCIPALLY REFINANCINGS, WHERE ORGANIZATIONAL DOCUMENTS WERE NOT PREPARED BY MORTGAGOR'S ATTORNEY}

1. Based solely on the Certificate(s) of Good Standing, copy attached hereto as Exhibit [___], the Mortgagor is a _____ **{INSERT TYPE OF ENTITY}** validly existing under the laws of the Organizational Jurisdiction and in good standing under the laws of the Organizational Jurisdiction [and is qualified to do business as a foreign _____ entity in the Property Jurisdiction.

{OR, IF THE MORTGAGOR IS A TRUST}

The Mortgagor is _____ **{INSERT NAME OF THE TYPE OF TRUST}** validly existing under the laws of the Organizational Jurisdiction [and is duly qualified to do business as a foreign _____ entity in the Property Jurisdiction].

{AND, IF THE GENERAL PARTNER OF A PARTNERSHIP MORTGAGOR IS AN ENTITY}

Based solely on the Good Standing Certificate(s), copy attached hereto as Exhibit [___], the general partner of the Mortgagor is a _____ **{INSERT TYPE OF ENTITY}**, validly existing and in good standing under the laws of _____ **{INSERT STATE}** [and is qualified to do business as a foreign _____ **{INSERT TYPE OF ENTITY}** in the Property Jurisdiction].

2. The Mortgagor has the [corporate/partnership/trust] power and authority and possesses all necessary governmental certificates, permits, licenses, qualifications and approvals to own and operate the Property and to carry out all of the transactions required by the Loan Documents and to comply with applicable federal statutes and regulations of HUD in effect on the date of the FHA Commitment.

3. The execution and delivery of the Loan Documents by or on behalf of the Mortgagor, and the consummation by the Mortgagor of the transactions contemplated thereby, and the performance by the Mortgagor of its obligations thereunder, have been duly and validly authorized by all necessary [corporate/partnership/trust] action by, or on behalf of, the Mortgagor.

4. All authorizations, consents, approvals, and permits have been obtained from, appropriate actions have been taken by, and necessary filings have been made with all

necessary Organizational and Property Jurisdictions or federal courts or governmental authorities, all as disclosed on Exhibit __, attached hereto, and as listed and set forth in Paragraph(s) 2 and ____ of this opinion [i.e. good standing certificate]. To the best of our knowledge, these represent all such authorizations, consents, approvals, permits, actions and filings that are required in connection with the execution and delivery by the Mortgagor of the Loan Documents and the ownership [and operation] of the Property.

5. Each of the Loan Documents has been duly executed and delivered by the Mortgagor and constitute the valid and legally binding promises or obligations of the Mortgagor, enforceable against the Mortgagor in accordance with its terms, subject to the following qualifications:

(i) the effect of applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally; and

(ii) the effect of the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or of equity); and

(iii) certain remedies, waivers, and other provisions of the Loan Documents may not be enforceable, but, subject to the qualifications set forth in this paragraph at (i) and (ii) above, such unenforceability will not preclude (a) the enforcement of the obligation of the Mortgagor to make the payments as provided in the Mortgage and Note (and HUD's regulations), and (b) the foreclosure of the Mortgage upon the event of a breach thereunder.

[6. {TO BE INSERTED WHEN ANY OR ALL OF THE LOAN DOCUMENTS ARE NOT HUD APPROVED FORMS OR WHEN HUD APPROVED FORMS HAVE BEEN REVISED OR MODIFIED IN CONNECTION WITH THE LOAN} The execution and delivery of, and the performance of the obligations under, the Loan Documents will not violate the Organizational Documents of the Mortgagor or any applicable provisions of local or State law.

[7. {INSERT FOR LOANS INVOLVING CONSTRUCTION OR REHABILITATION} To our [my] knowledge there are no proposed change(s) of law, ordinance, or governmental regulation (proposed in a formal manner by elected or appointed officials) which, if enacted or promulgated after the commencement of construction/rehabilitation, would require a modification to the Project, and/or prevent the Project from being completed in accordance with the plans and specifications, dated _____, executed by _____ **{INSERT MORTGAGOR}** and _____ **{INSERT GENERAL CONTRACTOR}**, and referred to in the Construction Contract (the "Plans and Specifications").]

[8. {INSERT IF THERE IS NO ZONING ENDORSEMENT INCORPORATED INTO THE TITLE POLICY} The attached Zoning Certificate states that the Property appears on the zoning maps of [Property jurisdiction] as being located in a _____ zone. According to the zoning ordinance of the

Property Jurisdiction, the use of the Property as a _____ is a permitted use in such zone.

OR

Based solely on the Zoning Certificate, the Property may be used for _____ as a permitted use.]

[9. {USE FOR NEW CONSTRUCTION OR SUBSTANTIAL REHABILITATION IN CASES WHERE THE DEPARTMENT DOES NOT RECEIVE A CERTIFICATE DIRECTLY FROM THE PROFESSIONAL} Based solely on the Certificate, construction/rehabilitation of the Project in accordance with the Plans and Specifications will comply with all applicable land use and zoning requirements.

{USE FOR REFINANCINGS} Based solely on the Certificate, the Project complies with all applicable land use and zoning requirements.]

10. Based solely on (a) our [my] knowledge and (b) the Certification of Mortgagor, the execution and delivery of the Loan Documents will not: (i) cause the Mortgagor to be in violation of, or constitute a default under the provisions of, any agreement to which the Mortgagor is a party or by which the Mortgagor is bound, (ii) conflict with, or result in the breach of, any court judgment, decree or order of any governmental body to which the Mortgagor is subject, or (iii) result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever on any of the property or assets of the Mortgagor, except as specifically contemplated by the Loan Documents.

11. Based solely on (a) our [my] knowledge, (b) the Certification of Mortgagor and (c) the Docket Search; there is no litigation or other claim pending before any court or administrative or other governmental body or threatened in writing against the Mortgagor, or the Property, [**{TO BE INSERTED WHEN MORTGAGOR IS NOT A SOLE-ASSET MORTGAGOR}** or any other properties of the Mortgagor] [, except as identified on Exhibit ____].

12. The Mortgage is in appropriate form for recordation in _____ **{INSERT PROPER NAME OF LOCAL LAND RECORDS OFFICE}** of _____ **{INSERT COUNTY OR CITY}** of the Property Jurisdiction, and is sufficient, as to form, to create the encumbrance and security interest it purports to create in the Property.

13. Filing of the Financing Statements in the Filing Offices will perfect the security interest in the Personalty of the Mortgagor located in the Project Jurisdiction, but only to the extent that, under the Uniform Commercial Code in effect in the Project Jurisdiction, a security interest in each described item of Personalty can be perfected by filing. The Filing Offices are the only offices in which the Financing Statements are required to be filed in order to perfect the Mortgagee's security interest in the Personalty.

14. The Loan does not violate the usury laws or laws regulating the use or forbearance of money of the Property Jurisdiction.

[15. **{FOR USE ONLY IF MORTGAGOR IS A TRUST}** The Mortgagor is an irrevocable trust that has a term consistent with HUD's requirements and the term of the irrevocable trust is not affected by the terms of any of the beneficiaries' interests.] [The laws of the Property Jurisdiction govern the interpretation and the enforcement of the Loan Documents notwithstanding that the Mortgagor may be formed in a jurisdiction other than the Property Jurisdiction. The Mortgagor can sue and be sued in the Property Jurisdiction without the necessity of joining any of the beneficiaries of the Mortgagor, including without limitation, a suit on the Note or a foreclosure proceeding arising under the Mortgage. Venue for any foreclosure proceeding under the Mortgage may be had in [Property jurisdiction].]

[16. **{USE IN CASES INVOLVING BOND FINANCING}** Based solely on the opinion of _____ **{INSERT BOND COUNSEL}**, dated as of the date hereof and attached hereto as Exhibit __, to the extent that any of the provisions of the Bond Documents are inconsistent with any of the provisions of the Loan Documents or Supporting Documents, the provisions of the Loan Documents or Supporting Documents shall govern.]

[17. **{USE IN CASES WHERE THE DEVELOPMENT OF THE PROPERTY IS GOVERNED BY AN AGREEMENT WITH A PUBLIC ENTITY}** Based upon our knowledge and the Certification of Mortgagor, there is no default under the Public Entity Agreement, and construction in accordance with the Plans and Specifications and within the time frame specified in the Construction Contract will not lead to a default under the Public Entity Agreement.]

In addition to the assumptions set forth above, the opinions set forth above are also subject to the following qualifications:

(i) The Uniform Commercial Code of the Property Jurisdiction requires the periodic filing of continuation statements with _____ [and _____] not more than _____ prior to and not later than the expiration of the _____ year period from the date of filing of the Financing Statements and the expiration of each subsequent _____ year period after the original filing, in order to maintain the perfection and priority of security interests and to keep the Financing Statements in effect.

(ii) We express no opinion as to the laws of any jurisdiction other than the laws of the Property jurisdiction [and the Organizational Jurisdiction, if it is different,] and the laws of the United States of America. The opinions expressed above concern only the effect of the laws (excluding the principles of conflict of laws) of the Property Jurisdiction [and the Organizational Jurisdiction, if it is different] and the United States of America as currently in effect. We assume no obligation to supplement this opinion if any applicable laws change after the date of this opinion, or if we become aware of any facts that might change the opinions expressed above after the date of this opinion.

We [I] confirm that:

(a) based on the Organizational Documents, the name of the Mortgagor in each of the Documents and the Title Policy and FHA Commitment is the correct legal name of the Mortgagor;

(b) the legal description of the Property is consistent in the Documents wherein it appears and in Exhibit B hereto;

(c) we [I] do not have any financial interest in the Project, the Property, or the Loan, other than fees for legal services performed by us, arrangements for the payment of which has been made; and we [I] agree not to assert a claim or lien against the Project, the Property, the Mortgagor, the Loan proceeds or income of the Project;

(d) other than as counsel for the Mortgagor, we have no interest in the Mortgagor (or any principal thereof) or the Mortgagee or any other party involved in the Loan transaction and do not serve as [a director, officer or] [an] employee of the Mortgagor or the Mortgagee. We have no undisclosed interest in the subject matters of this opinion. We do not represent the mortgagee-of-record, any investing lender or investor in the loan transaction, any bridge lender involved in the loan transaction, any lender with a commitment to purchase the loan or any interest therein or any other party involved in the Project or the loan transaction;

(e) based solely on the Surveyor's Report and the Surveyor's Plat, flood insurance [is **OR** is not] required pursuant to 42 U.S.C. 4012a(a); **{INSERT IF FLOOD INSURANCE IS REQUIRED}** Based solely on the Flood Insurance Receipt, flood insurance is in effect which satisfies the requirements of 42 U.S.C. 4012a(a);] and

(f) to our knowledge, there are no liens or encumbrances against the Property which are not reflected as exceptions to coverage in the Title Policy.

The foregoing opinions are for the exclusive reliance of [Mortgagee, its counsel] and HUD; however, they may be made available for informational purposes to, but not for the reliance of, the assigns or transferees of Mortgagee, or prospective purchasers of the Loan. We [I] acknowledge that the making, or causing to be made, of a false statement of fact in this opinion letter and accompanying materials may lead to criminal prosecution or civil liability as provided pursuant to applicable law, which may include 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802.

Sincerely,

[Authorized Signature]