

## **Chapter 17 Refinancing Cooperative Housing Projects under Section 207 pursuant to Section 223(f)**

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### **17.1 Introduction**

The following provides processing instructions for refinancing Cooperative Housing Projects under Section 207 pursuant to Section 223(f). This applies solely for refinancing a project and does not apply to projects that include an acquisition. Please note that proposed conversions or projects undergoing conversion to cooperatives are not eligible for refinancing under this chapter. Projects that were organized as a Cooperative must use the guidance in this chapter in order to refinance. If a project is to be refinanced pursuant to Chapter 3.7, Section 207/223(f) Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing, then the cooperative must first be dissolved.

### **17.2 Background**

Cooperative ownership is popular in certain parts of the country, especially for low-to-moderate-income occupants. HUD already insures traditionally processed mortgage loans to facilitate the construction and substantial rehabilitation of Cooperative Housing projects under Section 213. Facilitating the refinancing of a Cooperative under Section 223(f) will further the Department's mission by assisting eligible Cooperative projects to obtain refinancing to make necessary repairs and/or consolidate more expensive outstanding debt, thereby serving to preserve the affordable housing stock. Refinancing the existing underlying mortgage is considered to be a better alternative than expending a Cooperative's reserve fund, which would have a negative impact on its financial stability and would help to avoid the need for a special assessment, which could harm low-to-moderate income occupants, especially those on a fixed income.

### **17.3 Program Requirements**

The Underwriting Summary must demonstrate compliance with all program requirements.

- A. Loan Parameters. In accordance with Chapter 3, Section 3.7.Q, HUD will insure a mortgage for a maximum term of 35 years or 75% of the remaining economic life of the property, whichever is less. The maximum insurable mortgage amount shall be the lesser of the

following parameters as they relate to the criteria in Form HUD-92264-A, “Supplement to Project Analysis”: (**NOTE** - An equity take out from a refinancing loan is not permitted for cooperative housing projects.)

1. Criterion 1. Mortgage or Loan Amount Requested in Application.
  2. Criterion 3. Amount Based on Value or Replacement Cost. The market value of the cooperative valued as a market rate rental project multiplied by a loan ratio of 65%.
  3. Criterion 4. Amount Based on Limitations per Family Unit. Use Section 207 statutory per unit limits, adjusted by the local PC High Cost Percentage for the locality. Follow the outstanding instructions for Criterion 4.
  4. Criterion 5. Amount Based on Debt Service Ratio. A mortgage amount supported by 1.0 debt coverage based on the projected NOI as an existing Cooperative project based on its historic occupancy rate (up to 100%), which is NOI noted on line “5.e”.
  5. Criterion 7. Criterion 7 is not to be completed since acquisitions are ineligible.
  6. Criterion 10. Amount Based on Existing Indebtedness, Repairs and Loan Closing Charges. Follow outstanding instructions. The cost to refinance includes funding, if applicable, the Initial Funding of the Replacement Reserve and the Initial Deposit to the General Operating Reserve (see Section 17.3.F below). Equity out is not permitted under Section 223(f) when refinancing Cooperatives, accordingly, the calculation for this criterion stops at line 10.g.
  7. Criterion 11. Amount Based on Deduction of Grants and Gifts and Loans. Line 11.a shall be the cost to refinance plus FHA Mortgageable items taken from Line 10.g. Line 11.b shall be total of grants, gifts and loan intended to offset the cost of mortgageable items. Line 11.c shall be Line 11.a minus Line 11.b.
- B. Eligible Borrowers. Eligible borrowers include non-profit Cooperative Ownership Housing corporations or non-profit Cooperative Ownership Housing trusts regulated under state law and regulatory agreements that require membership eligibility and transfer of membership in a manner approved by HUD. Limited profit ownership entities such as those established under the Mitchell-Lama program in New York City may be acceptable pending review by local HUD Counsel.
- C. Application Processing. Applications for Cooperatives are processed in accordance with the current Section 223(f) instructions except as modified here.
- D. Required Exhibits. All exhibits normally required for a Section 223(f) application must be submitted with the following modifications and additions.
1. Rent Roll. The Rent Roll should be modified to indicate each shareholder’s name, unit location, mailing address, whether or not the unit is owner occupied, whether or not the unit is subsidized, date of occupancy, ownership percentage, amount of monthly maintenance charge, any special assessments and past due balances of 30 days or more. For any units subject to local rent control, the actual rent must be substituted for the carrying charge amount. The Rent Roll should be submitted as an Excel spreadsheet.
  2. Cooperative Membership Exhibit. Subsequent to issuance of the commitment and prior to closing, the lender must submit a statement of the cost to the borrower and the

Cooperative Membership Exhibit, Form HUD-93203. The number of members must equal the percentage (or number) of the total number of units as specified in the commitment.

3. Original Project Prospectus (if available). The prospectus is prepared at the time of the original public filing and contains a great deal of useful information for technical discipline processing by HUD as well as the underwriter and preparers of third-party reports.
4. Financial Statements for the Past Three Years. Follow the current instructions contained in Section 7.8.B and Section 8.4. The lender should review and evaluate any qualifications contained in the reviews to ensure the financial statements reliably represent the property's operating history and the assumptions relied on in the underwriting and should pay particular attention to the history of total past due balances of carrying charges and special assessments. The total amount of the unpaid balance (30 days or more) for maintenance charges and special assessments as shown in the rent roll must not exceed 5% of the gross annual income.
5. Environmental Exhibits.
  - a. Environmental Report. Lenders must submit an environmental report to HUD using HEROS, as described in Chapter 9. The environmental report must include and appropriately cite supporting documentation.
  - b. Contamination Analyses. The environmental report must include a Phase I ESA, if necessary a Phase II ESA, and, if further necessary, a remediation plan with approval by the appropriate regulatory authority. See Chapter 9.
6. Additional Third-Party Reports. HUD may require additional specialized reports to ascertain the safety and soundness of the property and its amenities as to their suitability as collateral for long-term financing.
7. Organizational Documents and Minutes. The Regional/Satellite office will identify the required documents set forth in Handbook 4550.3. The following additional exhibits are required:
  - a. Certificate of Incorporation FHA Form No. 3234-B.
  - b. Resolution of Board of Directors to Mortgage Cooperative.
  - c. Shareholders authorization to Mortgage Cooperative.
  - d. Resolution of Board of Directors adopting FHA Form No. 3245, "Model Form of By-laws."
  - e. Shareholders authorizing adoption of FHA Form No. 3245, "Model Form of By-laws."
  - f. Minutes of the last six Board of Directors meetings.
  - g. Resolution of Board of Directors adopting FHA Form No. 3237, "Model Form of Occupancy Agreement."
  - h. Resolution of Board of Directors adopting FHA Form No. 3237-A, "Model Form of Sublease." (The Member cannot assign the Occupancy Agreement nor sublet the

Dwelling Unit to any person without the prior written consent of the Cooperative on a form approved by HUD. Organizational documents must conform to HUD as well as any State or local required provisions.)

E. Project Eligibility. The property must contain at least 5 residential units with complete kitchens and baths. Proposed conversions or projects undergoing conversions are not eligible. Projects with a recent or unresolved vacancy history, or a history of shareholders not paying dues, carrying charges and other co-op obligations, will not be considered for mortgage insurance. The project must be fully subscribed, with no units owned by the original developer, prior to endorsement and must meet these additional criteria:

1. Project Design. The project must be designed for primary residence only. Guest suites are permitted as an amenity to the extent their use is consistent with the National Housing Act's prohibition against use of FHA-insured multifamily projects for transient or hotel purposes. However, timeshares, resorts, Cooperative hotels or rental pools are not permitted. Section 513 of the National Housing Act prohibits the use of the insurance programs for transient or hotel purposes. The borrower and individual shareholders cannot execute Occupancy Agreements for less than 30 days nor provide occupants with hotel services such as maid service, furnishing and laundering of linens, room service and bellboys. Units may not be sub-leased without the consent of the Cooperative Corporation. See Chapter 3 Section 3.1.O.8 and Housing Notice 2018-10 Guest Suites in Multifamily Housing under the National Housing Act for the detailed requirements.
2. General Market Conditions. The Property must be located in an area evidencing strong market understanding and acceptance of Cooperative housing. Financing for the purchase of individual shares must be readily available from mortgage bankers/brokers, banks or saving and loan institutions. The Underwriting Summary must cite recent sales within the building and indicate the type of financing utilized.
3. Repair Threshold. A project cannot be processed under Section 223(f) if it meets the current requirements for substantial rehabilitation in Section 5.12. Projects that are not eligible for mortgage insurance under Section 207 pursuant to Section 223(f) should consider the Section 213(i) program.
4. Fair Housing Act / Equal Opportunity Requirements. All other applicable program requirements for the Section 207 pursuant to Section 223(f) program must be met, including compliance with applicable Civil Rights Laws, including the nondiscrimination and affirmatively furthering fair housing provisions of the Fair Housing Act, and applicable accessibility requirements for persons with disabilities.
  - a. Affirmative Fair Housing Marketing. The Affirmative Fair Housing Marketing Requirements (24 CFR Part 200, Subpart M) apply to all insured projects of five or more units but projects insured under Section 207 pursuant to Section 223(f) are exempt from the submission of a written plan. However, a Section 223(f) applicant is required to maintain records of its affirmative marketing efforts. The borrower must certify that it will not discriminate against any protected class, which includes race, color, national origin, religion, sex, familial status, or disability.
  - b. Accessibility for Persons with Disabilities. This is required for properties built after March 13, 1991, containing Fair Housing Act noncompliance. If a project built after

March 13, 1991, is submitted for Section 223(f) refinancing and the PCNA inspection reveals that it contains noncompliance with the Fair Housing Act design and construction requirements, the Department must require that the owner correct the noncompliance as a condition of insurance. The extent of the noncompliance and the cost of correction will determine whether the project is feasible as a Section 223(f) or whether to resubmit it as a substantial rehabilitation. In no case may the Department insure projects with outstanding Fair Housing Act noncompliance.

5. Elderly Developments In refinancing of the underlying mortgage for an existing Cooperative project designed for the elderly, the Department defines the term “elderly family ” in the National Housing Act (NHA) as a household composed of one or more persons with the Head of Household (HOH) who is 62 years of age or more at the time of initial occupancy. Waiver of this definition is not permitted under any circumstances.

The Cooperative shall not provide mandatory meals and services such as those associated with retirement service centers. No non-shelter services can be a mandatory condition of occupancy and must be reviewed by the lender and approved by the Regional Center or Satellite Office for reasonableness. Non-shelter spaces already constructed for projects with current HUD-insured mortgages may include formal dining areas with meal services to be provided on an optional basis. All Cooperatives may provide modest kitchen equipment in a non-shelter space for the use of occupants or for catering services. The kitchen should be sufficient in size to comply with sanitary requirements. Additional requirements related to the provision of meals are as follows:

- a. Any meal service must be provided on an optional basis.
- b. The cost of meals may not be included in the residents' maintenance charges.
- c. The costs associated with the operation of the meals service are the responsibility of the entity that operates the optional meal service.
- d. The borrower may receive payment from the operator of the meals service. In such cases, this revenue may not be included in the underwriting of the project, as this service is optional for each resident, thereby potentially producing a revenue stream that is both unpredictable and unreliable.
- e. A determination should be made by the lender that the contract or agreement entered into with a third-party meal provider will not increase the project risk.
- f. Any meal service must be operated by a meal provider licensed under State or local law and in compliance with current health and safety requirements for food service providers.
- g. Local HUD Counsel must determine that the granting or revocation of any licensing required to operate a proposed meal service will not jeopardize the ability of the project to operate as Cooperative Housing in accordance with the requirements of the Regulatory Agreement.
- h. Costs associated with the construction of an ancillary building to include meal services may be considered in a mortgage proposed to be insured under Section 223(f) subject to outstanding requirements limiting non-shelter space and commercial areas set forth in Chapter 5 of the MAP guide.

6. Owner Occupancy. At least 75% of the total number of residential units must be owned and occupied by Cooperative members at the time of endorsement, and no more than 25% of the units may be owned by investors.
7. Vacancy Rate. The project should not have a vacancy rate greater than 5% since a higher vacancy rate may indicate a weak or problematic project or market. If an application is presented with a higher vacancy rate, the underwriter must provide convincing market evidence to support the transaction in the Underwriting Summary. The vacancy/occupancy rate used in underwriting the loan should be based on the actual historic performance of the project, which can be 100%. This applies only to Criterion 5 based on actual operation as a Cooperative project.
8. Turnover Rate. The sales history of the complex should display a healthy turnover rate to demonstrate that the project is viable and that there is demand for the units. If the turnover rate is less than 5% of the total number of owner-occupied units per year, the underwriter must determine the reasons for the low turnover rate and why it does not pose an unacceptable risk, which must be documented in the Underwriting Summary. However, it should be noted that a project and/or market area may have a historically low turnover rate due to its popularity as a source of affordable housing.
9. Adequacy of the Proposed Carrying Charges. The carrying charge must be sufficient to adequately maintain the project at a level that would make it suitable as security for a long-term mortgage. The Underwriting Summary must contain an analysis of the Appraiser's findings regarding the adequacy of the proposed carrying charge that will be in place after refinancing has occurred and a discussion of the Cooperative project's policy and history regarding increasing the carrying charge. The Cooperative's Bylaws or other appropriate organizational documents must contain a provision that requires an assessment and increase of carrying charges annually as may be required based upon operating history or at the direction of HUD, in order to address increases in operating expenses.
10. Carrying Charge Increase. In general, the debt service resulting from the proposed mortgage should not require a carrying charge increase of more than 5%, which may be exceeded, so long as all of the following requirements are met:
  - a. The carrying charge is below market for properly maintained similar projects and is not sufficient to adequately maintain the project.
  - b. The Board of Directors must approve the carrying charge increase in accordance with its By-laws the FHA Model Form of By-laws, FHA Form No. 3245.
  - c. An analysis of the demographic data in the appraisal report must indicate that the new carrying charge would be affordable for the typical resident.
  - d. Market analysis of the proposed maintenance carrying charge indicates that it is within market limits for similar projects in the subject's market area.
11. Commercial Space Limitations. The current Section 223(f) parameters must be followed.
12. Ownership of Commercial Space/Parking. Commercial and parking space at a Cooperative Housing project may or may not be owned by the Cooperative. Only those spaces that are owned by the Cooperative may be included as part of the collateral.

13. Ground Leases. Ground Leases must conform to the FHA Lease Addendum Form HUD-92070M. The term of the lease addendum may be varied to conform with applicable State and local law, except that the local HUD Closing Attorney must approve:
  - a. The legal need for any proposed lease term changes, and
  - b. That any term changes are consistent with the following requirements:
    - (1) Term is 99 years and is renewable, or
    - (2) Term is at least 50 years from the date the mortgage is executed (where a lease is on trust/other land on a reservation the HUD Closing Attorney must ensure that the lease provisions are coordinated with Bureau of Indian Affairs' requirements).
- F. General Operating Reserve (GOR). Cooperatives are required by the Regulatory Agreement, HUD Form No. 92466M with Rider incorporating cooperative requirements, to establish and maintain a GOR which is a percentage of the monthly carrying charges. The carrying charge is the sum of all project expenses, replacement reserve, taxes and debt service.
  1. GOR formula.
    - a. The GOR is maintained by a monthly payment of 3% of the monthly carrying charges.
    - b. When the GOR account reaches 15% of the annual carrying charges, the monthly rate may be reduced to 2%.
    - c. When the GOR account reaches 25% of annual carrying charges, monthly accruals may be discontinued until the account is reduced below 25%.
    - d. Anytime the GOR falls below the 25% level, monthly payments to the account shall be resumed at a 2% to 3% rate, as noted above, until the 25% level is restored.
  2. In addition to any Initial Deposit to replacement reserve, the Cooperative borrower may be required to make an Initial Deposit to the GOR in an amount equal to 15% but not to exceed 25% of the annual carrying fee. The Initial Funding of the GOR using this provision may be included in the cost of refinancing in an amount not to exceed the percentage amount of the annual carrying fee as determined by the Cooperative borrower and included in the project underwriting.
- G. Model Forms and Closing Documents. Use Handbook 4550.3, Existing Construction – Cooperative Housing, Appendix III (modified for Section 223(f)). Cooperative Organizational forms and documents must be reviewed and approved for legal and programmatic compliance before the issuance of a Firm Commitment. Use FHA Required Closing Instruments, FHA Form No. 3257-B, also set forth in Handbook 4550.3, Appendix 3-10. (See Section 17.3.D.7 above). The Regional Center or Satellite Office will provide the documents set forth in Handbook 4550.3.

## **17.4 Program Requirements – Technical Processing**

- A. Architectural and Cost Processing for Cooperatives. Follow the current instructions for Section 223(f). A summary of these procedures is outlined below.

1. Architectural Analysis. Lender will submit and HUD will review deliverables as specified under the present guidance for Section 223(f) to the Regional Center or Satellite Office.
  2. Cost Processing. The HUD Cost Analyst will review lender exhibits as required in Chapter 5 and will recommend either acceptance or rejection of the Cost portion of the Firm submission.
  3. PCNA. The CNA E-Tool is required to be completed for all cooperatives insured under Section 223(f). The primary purpose of the PCNA for a Cooperative project is to assess the Capital Needs of the project with the exception of any elements owned by the individual shareholders. So, it is very important to ascertain exactly what items are the sole responsibilities of the Cooperative. In some cases, appliances, kitchen cabinets, etc. may be owned by the Cooperative. The interior of individual units is still inspected in the same manner as with apartments. Any hazards or defects that would affect safety and marketability of the Cooperative should be noted even if it is an individual shareholder's responsibility. These items must be corrected at the shareholder's expense prior to endorsement. Mortgage proceeds must be used only for repairs of property owned by the Cooperative.
- B. Valuation Processing - Appraisal Scope-of-Work for Cooperatives. There can be great variation in how a Cooperative is structured. According to the USPAP, the determination of Scope-of-Work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment may cause the appraiser to reconsider the scope-of-work. Therefore, the guidance set forth below may be modified on a case-by-case basis to assure compliance with USPAP and that the results of the appraisal assignment will be reliable for making underwriting decisions. There are three major elements for the appraisal assignment: General Requirements, Valuation as a Market Rate Rental Project, and Market Analysis for Continued Use as a Cooperative.
1. General Requirements.
    - a. Selection of the Appraiser. The lender must select a qualified Appraiser in accordance with Chapter 7. It should be noted that the appraisal of a Cooperative is very specialized. Lenders should base their selection of an Appraiser on their experience for this type of assignment and upon their familiarity with the subject's market area.
    - b. Value Definition. Appraisers must use the following definition published by Federal Regulatory agencies:

“Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

      - (1) buyer and seller are typically motivated;
      - (2) both parties are well informed or well advised and acting in what they consider their own best interests.



- (3) a reasonable time is allowed for exposure in the open market;
- (4) payment is made in cash or by financial arrangements comparable thereto; and
- (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.”

The value shall be estimated assuming that all repairs have been completed as of the date of the appraisal.

- c. Inspection of the Subject and Comparables. The primary appraiser designated by the lender and accepted by HUD must physically inspect the subject (both exterior and interior) and all of the comparables used as part of the analysis and must sign the Certification within the appraisal report and the supporting HUD forms.
  - (1) The primary appraiser must inspect at least one of each bedroom/unit type. The total number of units inspected must equal or exceed 5% of the total number of units for projects of up to 200 units, or 4% of the total number of units/beds for projects greater than 200 units. If the characteristics and/or condition of the subject indicate that a higher level of inspection is necessary, it is the appraiser's responsibility to expand the scope of the work as is necessitated by the observations made by the primary appraiser during the inspection of the subject. This is especially important where the improvements are high-rise structures whereby individual units within demonstrate varying degrees of light and view qualities. If there are hazardous conditions or other factors that preclude a thorough inspection of the interior, the appraiser must clearly indicate these circumstances in the appraisal report.
  - (2) Large Projects. For projects exceeding 500 units, the appraiser must consult with the processing office to agree on a reasonable number of units to be inspected. In addition, the appraiser may employ assistants to inspect individual units. The purpose of allowing assistants is to encourage a thorough inspection. The names and qualifications of these assistants must be disclosed in the appraisal report, but they are not required to sign the report.
  - (3) The primary appraiser must inspect all the comparables used in deriving an estimate of value, including land comparables (if applicable), improved comparables sales, expense comparables and rental comparables. The appraiser must verify the condition of the comparables at the time of transfer/rental with management or other personnel familiar with the property. Contact information must be documented in the appraisal report.
- d. Required Appraisal Report Exhibits. In accordance with the requirements of Chapter 7 and the programmatic requirements of Section 223(f).
- e. Review of the PCNA and Environmental Report (including the Phase 1 ESA). The appraiser must review the PCNA and environmental report prior to completing the assignment, comment on any remarkable findings and their impact (if any) on value.
- f. Required Approaches. In accordance with the requirements of Chapter 7 and the programmatic requirements of Section 223(f).

- g. Estimation of Remaining Economic Life (REL). In accordance with the requirements of Chapter 7 and the programmatic requirements of Section 223(f).
  - h. HUD Forms. All of the usual forms for Section 223(f) should be employed, (92264, 92264-A, 92273 and 92274) following the outstanding instructions for Section 223(f). The Form HUD-92264 shall be completed based on usage as rental apartments.
  - i. Additional Appraisal Work Required by the lender or other Intended Users. The appraiser is bound by USPAP to complete the appraisal assignment in compliance with the requirements of the person or entity who ordered the report and to satisfy the needs of identified intended users.
  - j. Reconciliation and Conclusion. The appraiser must briefly reconcile the information presented; clearly indicating what data is the most relevant and supports the report's conclusions. The appraiser's conclusions must indicate whether or not the subject can expect to enjoy long-term use as a Cooperative; and whether or not the proposed carrying charge is within market limits and is affordable for the typical shareholder.
  - k. Report Content and Format. In accordance with the requirements of Chapter 7.
2. Valuation as a Market Rate Rental Project. Follow all current procedures in Chapter 7 for Section 223(f) Appraisal and Appraisal Review, including these additional instructions:
- a. Use of the Subject. The appraiser shall assume a hypothetical use of the subject as a market rate rental project, except that income from any units subject to rent control will assume the current controlled rental amount.
  - b. Estimate of Effective Gross Income. The estimate of Effective Gross Income shall be made using market rental housing comparables that are equivalent to the subject in location, size and style. Actual rents should be used for any rented units in the Cooperative that are subject to rent control. Market rents must be used for any subsidized units. Vacancy and collection losses should also be market derived, but in no event will a residential occupancy rate greater than 93% and a commercial occupancy rate at the lesser of the actual occupancy rate or 90% be used.
  - c. Expense Analysis. The Expense analysis should accurately reflect usage as a market rate rental project. Appropriate weight should be given to the most recent three-year history for items such as repairs, maintenance and common utilities. Other items such as taxes and management expense should be based on rental apartment market data.
3. Market Analysis for Continued Use as a Cooperative. The appraisal report must also contain a Level A, Level B or Level C Market Analysis of the local market, depending on market complexity, with an emphasis on Cooperatives. The purpose of the analysis is to determine the ability of the subject to continue usage as a Cooperative Housing project. The detailed requirements for performing a Level A, B or C analysis can be found in "Market Analysis for Real Estate", published by the Appraisal Institute.
- a. Assumptions. The study should assume that management has budgeting and operations under control, which can be demonstrated by an illustration of past year's maintenance charge history.

- b. Financial Statement Review. Special Assessments should be explained, and a review of the last three years financial statements is required. (See Section 17.3.D.4 above for specifications for financial statements). The footnotes to the Cooperative's yearly financial statement are a typical source of details regarding past, current and upcoming issues. There should be a discussion of any material or atypical items as to their impact on value. In addition, the appraiser will complete a Form HUD-92274 using comparable Cooperative projects and also analyze the past three years records and any unaudited records from the most current period, if deemed reliable, to ascertain if the proposed maintenance charge is adequate to continue operations.
  - c. Cost of Occupancy/Cost of Ownership Analysis. The typical monthly maintenance charge by unit type should be compared to the competing project's monthly maintenance charges by unit type and will serve as a variable for Cost-of-Occupancy/Cost-of-Ownership calculations to ascertain and support market-oriented unit pricing. The appraiser will complete a Form HUD-92273 for each major Cooperative unit type using other units from other Cooperative projects as comparables to compare monthly carrying charges and to determine if the proposed monthly fee is realistic and affordable for the subject's market area.
4. Appraisal Review. HUD Multifamily Staff Appraisers will review the appraisal in accordance with USPAP Standard 3. The appraisal review must include a comparison of the subject's proposed monthly carrying charges based on the new financing to what the various units would rent for if the subject were operated as a rental project. A Cooperative Housing project's feasibility for continued use as a Cooperative is questionable if monthly carrying charges significantly exceed what units could actually rent for. A downward trend in rents versus no change or an upward trend in carrying charges is an indication of an unhealthy Cooperative Housing project/market.
- C. Environmental Processing. The HUD Review Appraiser will follow all applicable instructions in Chapter 9.
- D. Mortgage Credit Processing. Follow the current procedures in Chapter 8 for Section 223(f) modified as follows:
1. Determination of the Acceptability of the Cooperative Corporation.
    - a. Board of Directors Performance History. In processing an application, the lender will take into account the BOD's ability and willingness to manage the Cooperative within the requirements of Section 223(f). The lender will also consider all applicable requirements contained in Chapter 10, Management Analysis.
    - b. Ability to Close. It must be determined that the Cooperative organization has the ability to close the transaction in a satisfactory manner and that the sum of the monthly charges to members will be adequate to meet debt service and other ownership expense.
    - c. Creditworthiness. It must also be determined that participants have not been debarred or subject to a Limited Denial of Participation and are otherwise capable of meeting their ownership and management obligations. For the Single Asset Borrower Entity,

- its Officers and BOD Members, and the Management Agent, the review should include the HUD-2530 / APPS Clearance (or successor form).
- d. Other Business Concerns. List of other business concerns are required for the Officers of the BOD.
  - e. Adequacy of Monthly/Annual Charges. The underwriter must ensure that the sum of monthly charges, as listed on the Cooperative Membership Exhibit, converted to an annual basis, is sufficient to meet the HUD estimate of debt service, Cooperative operating expenses, taxes, special assessments and ground rents, if any, plus a general operating reserve of 3% of these items. In making these determinations of allowances for accessory income (if any), the allowance shall not exceed the Cooperative's estimate or the appraiser's estimate of accessory income, whichever is the lesser. However, rental payables under duly executed acceptable leases for commercial space on the premises shall be used in lieu of estimates. These payables should be totaled to be sure all members have assurance that the total membership has their required minimum equity requirements. The HUD estimate of annual charges will include the following:
    - Debt service payments.
    - Cooperative Operating Expenses, Reserve for Replacements, Taxes, Special Assessments and Ground Rent, if any.
    - (Memorandum attached to Form HUD-92264). General Operating Reserve of 3% of Sum of Above.
  - f. Review of the Cooperative's Procedure for Approving New Members. The procedures employed by the Cooperative in approving new members (cooperators) should be reviewed to ascertain if there is compliance with any income requirements and credit scores as contained in the Cooperative's bylaws or other related agreements. The subscription agreement and other individual underwriting documentation for anyone becoming a member in the three-month period immediately prior to the date the application for Firm Commitment was submitted must also be reviewed by the HUD processing office.
  - g. Carrying Charges. The Regional Center or Satellite Office must review the procedures employed by the Cooperative in reviewing its budget, determining the adequacy of the carrying charge and to its history of carrying charge increases. The Cooperative's Bylaws or other appropriate organizational documents must contain a provision that requires an annual increase in the carrying charge based on inflation, in order to address increases in operating expenses. The total amount of the unpaid balance (30 days or more) for carrying charges and special assessments as shown in the rent roll must not exceed 5% of the gross annual income.
2. Determination of Total Debt Service, Cooperative Operating Expense and GOR. Total Debt Service will be calculated by multiplying the amount of the mortgage by the sum of initial curtail rate, interest rate and MIP. Cooperative Operating Expense includes those operating expenses, reserve for replacements, taxes, special assessments and ground rents, if any, which are the responsibility of the Cooperative membership as a whole rather than of the individual members and will include the cost of occupancy of the units assigned to employee use. The GOR is calculated in accordance with the instructions in

Section 17.3.F and is accumulated as a special reserve in order to meet possible contingencies.

3. Outstanding Debt. Past due accounts payable and outstanding project liabilities must be cleared and released, or otherwise fully satisfied, prior to or at loan closing. Examples of such items include deferred management fees, overdue utility bills or real estate taxes, or trade payables. These items are not to be included in the eligible debt basis.
4. Completion of the Form HUD-92264-A and Determining the Maximum Insurable Mortgage. Pages 1-2 of the form HUD-92264-A shall be completed according to existing instructions, modified as noted in Section 17.3.A.

E. Asset Management Processing. Asset management processing requirements for cooperatives are identical to those used in processing Section 223(f) applications for mortgage insurance. Therefore, current Section 223(f) processing procedures for cooperatives submitted under this Section of the MAP guide should be used in loan processing.

## **17.5 Program Requirements – Issuance of Firm Commitment and Loan Closing**

Follow Section 223(f) closing procedures in the Multifamily Closing Guide and contact the Regional Center or Satellite Office for the FHA Required Closing Instruments, FHA Form No. 3257-B, set forth in Handbook 4550.3, Appendix 3-10.

***NOTE: The MAP Forms contained in this Appendix that are used by lenders and by HUD processing staff will be updated, revised and reissued in a Housing Notice after the Department has completed work that is currently underway to streamline application processing and program requirements. The Forms are otherwise unchanged.***