

## **M. HOUSING FOR SENIOR CITIZENS**

### **1. Introduction**

The purpose of this section is to provide some basic knowledge of the provisions limiting and regulating organizations that provide rental housing for senior citizens and to present the current trend in our approach on handling applications and ruling requests from such organizations. Emphasis will be placed on selected areas of concern in terms of the standards that must be met by these organizations. The 1979 ATRI text (page 234) also contains a section that traces the legal background of organizations providing housing and auxiliary services to the elderly in the context of IRC 501(c)(3), and discusses the standards that homes for the aged must maintain to qualify for recognition of exemption.

### **2. Background**

Until the 1970's, the Service's position was that the aged were not a charitable class per se. Our earlier position was that, when an organization operated to relieve the distress of the elderly, any exemption as a charitable entity was tied to the concept that the elderly were also suffering from financial hardship.

In the early 1970's, we began to soften our position as evidenced by our change of heart with respect to homes for the aged. The result of this new attitude was Rev. Rul. 72-124, 1972-1 C.B. 145, which recognized that the elderly as a class face forms of distress other than financial distress, and have special primary needs for housing, health care, and economic security in general. It set forth guidelines under which a home for the aged could satisfy those primary needs and qualify for exempt status.

Thereafter, the Service held that charitable status could be extended to an organization: that establishes a service center providing information, referral, counseling services relating to health, housing, finances, education, employment, and recreational facilities for a particular community's senior citizens<sup>1</sup>; that operates a rural rest home to provide, at a nominal charge, two-week vacations for elderly poor people<sup>2</sup>; and that provides home delivery of meals to elderly and handicapped people by volunteers<sup>3</sup>.

<sup>1</sup> Rev. Rul. 75-198, 1975-1 C.B. 127

<sup>2</sup> Rev. Rul. 75-385, 1975-1 C.B. 205

<sup>3</sup> Rev. Rul. 76-244, 1976-1 C.B. 155

The culmination of the new thinking was the publication of Rev. Rul. 79-18, 1979-1 C.B. 194, which focused on rental housing for the aged. In Rev. Rul. 79-18, and its counterpart ruling, Rev. Rul. 79-19, relating to special housing for the physically handicapped, the Service ruled that a rental housing project that provides specifically designed housing, and that meets the other standards outlined in Rev. Rul. 79-18, qualifies as a charitable entity as long as the project provides its facilities and services at a charge within the financial reach of a significant segment of the community's elderly persons. Rev. Rul. 79-18 is still the authority to check when dealing with homes for the aged.

Refer to the 1979 ATRI text for a more complete analysis of the requirements necessary to satisfy the need of the elderly for health care and for specifically-designed housing. It also furnished an initial discussion of the need for financial security; however, this need is discussed in greater detail below.

### 3. Current Trends as to Financial Security Needs of Elderly Persons

Rev. Rul. 79-18 has generally eliminated most of the earlier concerns the Service experienced with regard to rental housing for the elderly. Now, organizations can refer to Rev. Rul. 72-124 and Rev. Rul. 79-18 for clear-cut guidelines in establishing and maintaining rental housing for the elderly that will qualify for charitable status.

One area where issues still develop is in the financial security needs of the elderly, as described in the above revenue rulings. There are basically three financial conditions that must be met by the organization to satisfy the elderly's financial distress.

A. One condition is that the rental charges must be set at a level within the financial reach of a significant segment of the community's elderly persons. This standard or condition is set forth in Rev. Rul. 79-18. It can only be determined on a case by case and community by community basis. An organization may qualify based on the economic make-up of its immediate community, and in a different location, similar charges by an organization may preclude sufficient availability to justify exemption.

Note that the determinative factor is not the lavishness of the facility. Rather, the proper test is whether the facility is reasonably available to the elderly members of the community. That is, if the various fees charged are low enough so that a significant portion of the elderly community can avail itself of the facility,

then the organization can qualify as a charitable entity, assuming the other criteria are met. Whether the facility could be termed "lavish" would not even be among the considerations. However, if the fees charged are so high that the facility is not reasonably available to the elderly in the community because only an insignificant portion of that group can afford to avail itself of the facility, then the benefit to the community is too minimal to warrant exemption.

B. The second financial condition is that the organization must be committed to operating at the lowest feasible cost, the standard set forth in Rev. Rul. 72-124. The expenses of the organization furnish evidence of such, taking into consideration such necessary expenses as the payment of indebtedness, maintenance of adequate reserves sufficient to insure the life care of each resident, and reserves for physical expansion commensurate with the needs of the community and the existing resources of the organization.

The "lowest feasible cost" requirement is not one that can be neatly defined. By its nature, it is a relative condition that will vary from case to case. In general, this requirement means that the services must be provided to the elderly, who as a group have a large percentage of financially distressed persons, for the least possible expense. The fact that an organization makes some part of its facilities available to persons with income lower than its regular residents at rates below its customary charges for such facilities will constitute additional evidence that the organization is attempting to satisfy the need for financial security. However, this is not a necessary condition to fulfilling the "lowest feasible cost" requirement, but is only a factor which would aid in the determination.

Additional circumstances can indicate whether the organization is attempting to operate at the lowest feasible cost. Wasteful expenditures would be a strong indication that the "lowest feasible cost" is not being sought. However, no one type of expenditure can be presumed to be wasteful or above the lowest feasible cost. Take, for example, the case of an organization that has expenditures for advertisements and marketing. Under the proper circumstances, these and other commercial practices may be the most efficient means of limiting operating expenses. The major factor that should distinguish a charitable home from a for-profit home in these circumstances is the total dedication of the assets to the charitable work with no private inurement. Whether there could be less expensive methods to bring the organization to full-scale operation, such as advertising through church bulletins or by seeking the aid of other charitable organizations, is open to question and may not be available in certain circumstances.

Note the distinction between the lowest feasible cost standard and the test as to whether the facility is reasonably available to a significant segment of the elderly members of the community. The lowest feasible cost standard takes into consideration such expenses as payment of indebtedness and maintenance of reserves. Land costs and basic construction costs, as well as the provision of luxurious amenities, could be major factors escalating the cost of a facility. Even with these high costs, the facility might well be operated at the "lowest feasible cost" yet its expenses would be so high, and its commensurate fees necessarily so high, that it would not be reasonably available to the elderly of the community, and thus not entitled to exemption. Therefore, all tests described herein should be satisfied before an organization is entitled to charitable status.

C. The final financial condition is that the home must be committed to an established policy of maintaining in residence any persons who become unable to pay their regular charges. Through recent years, the Service has adopted a liberal interpretation of this policy. The condition can be met through a showing by the organization that they are committed to maintaining residents to the degree to which the organization is financially able. For example, a policy established by the organization of finding a place for residents with another suitable agency or organization when the residents can no longer pay the charge is sufficient to satisfy the criteria, without necessarily requiring the organization to directly maintain the residents.

Note that although the Service has broadened the maintenance policy, we have not abandoned it, because we feel it is an integral element in providing for the care of the elderly. The organization seeking a ruling or exemption must demonstrate a commitment to maintaining residents who can no longer afford to pay, to the degree that the organization is financially able. Such commitment should be evident in the case file regardless of personal knowledge of the way the organization operates. For example, an organization establishes a written, stated policy of eviction of residents upon their failure to pay the HUD determined portion of income for rent. The organization also demonstrates that it will receive local, state, and federal funding and orally states that it will retain residents to the extent it is financially able and will seek support from other sources. Regardless of these latter two circumstances, which appear to indicate a commitment to maintain residents, the overall available evidence does not indicate such a commitment. The written policy of eviction is a factor greatly outweighing the other favorable factors. The organization is afforded an opportunity and the right to evict residents who do not pay, regardless of any appearance otherwise. In such circumstances, for

a favorable ruling, a noneviction policy statement by the organization would be necessary.

D. A point worth mentioning is that the HUD financial assistance programs often play an important role in determining whether an organization is meeting the conditions of (1) reaching a significant segment of the community's elderly persons; (2) operating at the "lowest feasible cost"; and (3) maintaining in residence, persons who are unable to pay the regular charges. The various programs have certain requirements that limit the income levels, or specify the median income based on the location of the dwelling. Also application for such federal or state funding programs remains one of the major factors to consider in determining whether the financial security conditions have been met, or will be met.

There are various types of funding programs sponsored by the Department of Housing and Urban Development that are applicable to rental housing for senior citizens. Some furnish guaranteed/insured loans to the nonprofit sponsors for building/constructing/renovating the facility; others provide a form of rental subsidies for the residents themselves; and the remaining programs offer a combination of the two.

Attachment 3 to the 1979 ATRI (starting at p. 264) provides an overview and explanation of the various federal programs. Because some changes have occurred in the programs since the 1979 publication, we have attached an updated description of some HUD-sponsored programs. See Appendix 1.

#### 4. Investment Partnership Financing of Rental Housing for Senior Citizens

The cases we have recently seen utilize a new method of financing to satisfy the three financial security conditions outlined above while paying off indebtedness. Many organizations finance the building and operation of the facility through the use of investment partnerships. The volume of senior citizen housing projects using investment partnerships suggest this to be an area that requires a discussion here. For a discussion of partnerships in relation to exempt hospitals and their staff physicians, see the "Health Care Organizations" article in the 1984 CPE text. This discussion focuses on investment partnership arrangements only in a limited sense as it affects the exempt status of senior citizen rental housing and should not be viewed as an authority regarding investment partnerships in relation to IRC 501(c)(3) organizations in general.

The use of an investment partnership by the organization to effect the charitable end is a "means" by which the organization seeks to accomplish the charitable end. It has become quite common for an organization to use a partnership to reduce the effective cost to the charitable class to meet their "lowest feasible cost" condition, or to raise the necessary funds or reserves, or to limit its risks.

We believe that an exempt organization's participation in a partnership arrangement as a general partner will not per se result in a denial of IRC 501(c)(3) status. A general partner must exercise prudent business judgment and normally must maintain a basic profit orientation in the interests of the limited partners. However, the partnership agreement between the exempt organization and individuals or for-profit entities should be closely examined to assure that the fiduciary obligations of the general partners do not conflict with the exempt organization's ability to pursue its charitable goals. We are concerned with the private benefit that may occur when the assets of the public charity are being used to benefit private interests.

The Service basically utilizes a two-part test in determining the permissibility of an investment partnership financing scheme by the charitable entity. In all partnership cases, initial focus should be on whether the organization is serving a charitable purpose. Once a charitable purpose has been established, then the partnership arrangement itself should be scrutinized to see whether the arrangement permits the exempt organization to act exclusively in furtherance of its own exempt purpose and not for the benefit of the limited or other partners.

Housing the elderly is a recognized charitable purpose, as long as the guidelines and special needs outlined above are met and satisfied. Thus, in the initial part of the test, we are not concerned with the source of the funds to furnish the housing because the source does not determine whether the activity is charitable. Rather, the source of the funds represents the financial means employed to reach the housing goal.

Once the goal has been identified as charitable, the next step is to analyze the means. The "means" required to reach the charitable goal of renting low-income and specially-designed housing are traditional business methods. The organization usually needs to acquire land, construct improvements or renovate buildings, and sell, rent and manage the properties.

The area that greatly concerns the Service, as noted above, is the possible private benefit that can inure to the for-profit partners and the conflict that may result between the exempt purpose of the organization and its fiduciary responsibilities as a general partner. The Service's position is that the structure of the partnership and its agreement should insulate the exempt general partner and avert significant conflicts of interest between the organization's charitable purposes and its duty to further the pecuniary interest of the other partners.

Unless the partnership agreement permits the exempt organization to act exclusively in furtherance of its exempt purposes, thereby insulating it from an objective of maximizing the profit of the partnership, it would be in the untenable position, as a general partner, of being obligated to maximize partnership profits and, at the same time, to pursue exempt (i.e., nonprofit) goals in its partnership activities. Thus, the partnership agreement should free the exempt organization to act exclusively in furtherance of its exempt purposes while, at the same time, fulfilling its fiduciary obligations to the limited partners, other than the obligation to maximize their profits.

We would take exception to a partnership agreement that unduly benefits the non-exempt investors. This could occur if a disproportionate allocation of profits and/or losses was granted to the investors, if commercially unreasonable loans were made by the exempt organization to the partnership (i.e., inadequately secured, below prevailing interest rates, etc.), if property is leased or sold by the exempt organization at less than fair market rates, or if the exempt organization is inadequately compensated for any services. While investors should be entitled to a reasonable return on their investment, the agreement should be drafted to prevent windfalls.

In addition, we would look very carefully at any partnership involving parties who are related to the exempt organization, e.g., the founder of the exempt organization, his family members, a substantial contributor to the organization, etc.

The following are some private letter rulings issued that illustrate the Service's position regarding investment partnership financing of low-income and elderly rental housing. They are disclosable under IRC 6110, but may not be cited as authority for other cases, and are presented here for training purposes only. The applicable law sections have been omitted.

Dear Applicant:

This is in reply to your letter of July 27, 1983, requesting rulings concerning the effect the proposed activity of entering into a limited partnership may have on your current status as an organization described in section 501(c)(3) of the Internal Revenue Code and as a public charity described in section 509(a)(2).

You currently operate a facility that furnishes housing for the elderly and other services attendant to such operations. The project was constructed in \* \* \* and is subject to a construction mortgage insured by the Federal Housing Administration of the United States Department of Housing and Urban Development ("HUD"). The mortgage was subsequently purchased by the Government National Mortgage Association.

You are governed by a board of directors that is representative of the general community in which you are located.

As a condition of insuring construction financing of the project, you entered into a Regulatory Agreement with HUD providing that, among other restrictions on operating the project, no sale or other transfer can be accomplished without the express consent of HUD. The agreement contains substantial restrictions on the use of the project, the establishment of a rent structure, the eligibility of tenants and general management. This arrangement is to insure the project is operated for the benefit of low and moderate income elderly persons who meet the income and other requirements established by HUD.

You now propose to enter into an agreement for the purpose of becoming a co-general partner in a limited partnership. The other co-general partner is a for-profit entity totally independent from your organization and all dealings appear to be at arm's length. The project you now operate will be sold to the limited partnership for its fair market value. Limited partnership interests will then be sold to independent investors. As a general partner, for purposes of actively participating in management of the project, you will receive a one percent (1%) allocation of profit or loss in the limited partnership and pursuant to a HUD approved management contract, will receive the standard management fee and receive reimbursement for expenses incurred on behalf of the purchaser. The limited partnership agreement will state that you will not be responsible for operating losses. The mortgage owned by you that is insured by HUD is nonrecourse.

The proposed terms of sale provide for the assumption by the partnership of the then outstanding balance of your mortgage, plus cash to be paid in equal annual installments with interest, and a note payable, with interest over a period of ten years. The note may be extended for two additional terms of five years each, and will be accelerated in the event of a sale or refinancing of the project. HUD will require ten percent (10%) of the cash proceeds to be set aside in a reserve and replacements. You will have the right to first refusal in case the facility is sold.

Coincident with the sale of the project, you plan to amend your enabling organizational documents, i.e., your By-Laws and/or Articles of Incorporation, to permit the corporation to act as a general partner and to contract as the management agent of the project.

You will continue to furnish management services for purposes of operating the facility in order to insure that management activities will be performed in accordance with the policies and procedures prescribed by the Regulatory Agreement between you and HUD. You will maintain on-going oversight responsibility to insure there is a tenant management relations plan, a tenant grievance system and a social service program for the benefit of the tenants. These programs will insure that the for-profit facility will be operated to serve the special needs of the elderly.

You have requested the following rulings:

1. That the acquisition and retention by you of the general partnership interest described above will not adversely affect your current exempt status under section 501(c)(3) of the Code. Further, that amendment to your Articles of Incorporation to permit the acquisition of a general partnership interest will not adversely affect exempt status.

2. That the management fee paid to you and the reimbursement of expenditures on behalf of the partnership will not constitute unrelated trade or business under sections 511 through 514 of the Code.

An exempt organization's participation in a partnership arrangement as a general partner will not per se result in loss of status under section 501(c)(3) of the Code. Each partnership arrangement must be examined closely to determine that the statutorily-imposed obligations on the general partner do not conflict with the exempt organization's ability to pursue its charitable goals. Thus, it must first be determined whether the organization is serving charitable purposes. Once charity has been established, the partnership arrangement itself must be examined to see if the arrangement permits the exempt organization to act exclusively in furtherance of the purposes for which exemption was granted and not for the benefit of the limited partners.

In the instant case, the sale of the project is basically a neuter transaction that does not itself accomplish a charitable purpose. However, your participation in the transaction is to insure that the facility will be operated in accordance with policies and procedures prescribed by the Regulatory Agreement between you and HUD. Further, you are to maintain oversight responsibility to insure there is a tenant management relations plan, a tenant grievance system and a social service program for the benefit of the tenants. Your participation will also insure that the for-profit facility will be operated to serve the special needs of the elderly. For performance of these and other general management services you will receive reasonable compensation and a one percent profits interest in the partnership.

You have also established that the partnership arrangement does not, to a substantial extent, further private interests. You will be insulated from loss on the nonrecourse mortgage insured by HUD and the partnership agreement will state that you will not be responsible for any operating losses.

Accordingly, based on the above, we rule/conclude as follows:

1. The acquisition and the retention by you of the general partnership interest described above will not adversely affect your exempt status under section 501(c)(3) of the Code. The amendment of your Articles of Incorporation to permit the acquisition of the general partnership interest will also not adversely affect your exempt status.

2. The management fee paid to you and the reimbursement of expenditures on behalf of the purchaser will not constitute unrelated trade or business under sections 511 through 514 of the Code.

Private Ruling 8449070

Date: September 7, 1984

Dear Applicant:

This is in response to your ruling requests of May 31, 1984, concerning the tax consequences of the proposed transaction fully described below.

The information submitted indicates that M is recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and has been classified as a public charity within the meaning of section 509(a)(2) of the Code. M is the parent organization of a group consisting of several related organizations, each of which is recognized as exempt from tax under section 501(c)(4) of the Code.

M's purpose is to develop and manage housing projects designed to meet the special needs of the elderly and the handicapped. To achieve this end, M enters into arrangements with local groups to form subsidiary nonprofit corporations to own particular facilities. M advises the corporation on development of the facility and arranges financing from a conventional source, from the Farmers Home Administration, or from the Department of Housing and Urban Development (HUD) under section 202 of the National Housing Act. M is the sole member of each subsidiary and controls and manages each of the facilities.

N, one of M's subsidiaries, owns and operates the specially designed housing facility known as X. X was financed by HUD and offers federally subsidized housing to qualified residents.

To raise additional funds to permit N to build additional facilities and to otherwise further its exempt purposes, you propose the following:

A limited partnership will be formed for the purpose of acquiring, owning and renting X as apartments for the elderly and handicapped. M will be the sole general partner and will have one percent interest in the capital, profits and losses of the Partnership. The limited partners will have a ninety-nine percent interest in the Partnership. M will amend its Charter to permit it to act as the general partner.

The Partnership will obtain the services of a reputable investment banking firm to syndicate limited partnership interests. The syndication will raise the necessary funds to pay the cash portion of the purchase price, the costs of organizing and financing the Partnership and to cover certain initial costs related to the operation of X.

Upon completion of the syndication, the Partnership will purchase X from N for the fair market value of the project determined by independent appraisal. The project will be purchased subject to the existing indebtedness guaranteed by HUD. The rest of the purchase price will be cash and a

promissory note at the prevailing rate of interest from the Partnership. N will be given a right of first refusal to purchase the project in the event of a future sale. M will continue to manage the project as the general partner of the Partnership. M will receive an annual management fee of six percent of gross rentals and a computer fee of one percent of gross rentals.

An exempt organization may qualify under section 501(c)(3) of the Code notwithstanding its participation in a limited partnership if the partnership arrangement permits the exempt organization to act exclusively in furtherance of the purposes for which exemption was granted. The proposed Limited Partnership Agreement submitted with this request does not conflict with M's ability to pursue its charitable goals of maintaining and managing housing complexes for the elderly. The partnership agreement is further structured to preclude a conflict of interest between M's obligations as a general partner and its exempt purposes since M's responsibility is specifically limited in the agreement. Accordingly, we rule that M's formation and participation in the Partnership as the general partner and the amendment of its Charter to permit it to act in that capacity will not have an adverse effect on its status as an organization exempt under section 501(c)(3) of the Code. In addition, since M's sources of support have not changed, M continues to be described in section 509(a)(2) of the Code.

N will use the proceeds of its sale of X to the Partnership to build additional facilities for use by the elderly and handicapped. Since N's activities will continue to promote the social welfare of the community, N will continue to qualify for exemption from federal tax under section 501(c)(4) of the Code.

In summary, we rule that:

1. M's participation in the Partnership to manage the housing complex for the elderly and handicapped will not have an adverse effect on its status as an organization exempt from tax under section 501(c)(3) of the Code or its classification as an organization described in section 509(a)(2) of the Code.

2. N's sale of X to the Partnership in the manner described will not have an adverse effect upon its status as an organization exempt from tax under section 501(c)(4) of the Code.

##### 5. Exemption Under IRC 501(c)(4) v. IRC 501(c)(3)

The revenue rulings represent the Service's current viewpoint that relieving the distress of the aged is a charitable activity and therefore within the scope of IRC 501(c)(3). However, exemption for entities providing housing for the elderly is not necessarily exclusive under IRC 501(c)(3). Exempt status under IRC 501(c)(4) is also available to homes for the aged. Due to the advantages of exemption under section 501(c)(3), organizations will naturally favor seeking exempt status under that provision. Yet, should the organization fail to qualify under IRC 501(c)(3) for a reason that would not preclude exemption under IRC 501(c)(4), the opportunity for exempt status under the alternative section should be pointed out.

Under IRC 501(c)(4), organizations promoting social welfare may be granted exemption. The Income Tax Regulations under IRC 501(c)(4) describe the promotion of social welfare as promoting in some way the common good and general welfare of the people of the community, such as bringing about civic betterment and social improvements.

The concepts of "social welfare" and "charity" are not necessarily exclusive of each other. Section 1.501(c)(4)-1(a)(2) of the regulations explains that a social welfare organization can qualify for exemption under IRC 501(c)(3) provided it meets the definition of "charitable" as set forth in section 1.501(c)(3)-1(d)(2) and is not an "action" organization. Section 1.501(c)(3)-1(c)(3)(v) of the regulations states that an "action" organization may qualify for exemption as a social welfare organization under IRC 501(c)(4), if it meets the requirements of that section, even though it cannot qualify under IRC 501(c)(3).

The consequence of the overlapping relationship between IRC 501(c)(3) and IRC 501(c)(4) is that social welfare organizations qualifying under the former may be recognized as exempt under IRC 501(c)(3), while those social welfare organizations that cannot so qualify under IRC 501(c)(3) because they are "action" organizations, or because they do not meet the definition of "charitable" contained in the regulations, can gain exemption under IRC 501(c)(4), provided they meet all the requirements of that provision. Note, however, that under IRC 504, an organization that has its exempt status under IRC 501(c)(3) revoked because of substantial legislative activity cannot be exempt under IRC 501(c)(4).

For example, providing a home for the elderly is considered a charitable activity within the purview of IRC 501(c)(3). However, the organization providing the home as its primary activity also engages in substantial legislative activities. The legislative activities would preclude exemption under IRC 501(c)(3), but such activities do not preclude exemption under IRC 501(c)(4), since the organization would be primarily engaged in promoting the common good and general welfare of the people of the community.

In order to relieve the distress of the aged within the scope of IRC 501(c)(3), an organization must furnish something more than housing. The facilities and services offered by such organizations must bear some relationship to the totality of the needs of the elderly, as listed under Rev. Rul. 79-18. If the organization fails to satisfy even one of the primary needs (housing, health care, and economic security), the organization would fail to qualify for charitable status under IRC

501(c)(3). The failure to satisfy a primary need of the aged would also preclude exemption under IRC 501(c)(4), because the common good and general welfare of the people of the community has not been promoted. Similarly, should a limited partnership be established to help finance the facility, and private benefit is found to inure to one of the for-profit entities, exempt status could not be achieved under either IRC 501(c)(3) or IRC 501(c)(4).

Accordingly, although exemption under IRC 501(c)(4) is available to homes for senior citizens, generally charitability under IRC 501(c)(3) can be satisfied, unless the organization intends to engage in legislative activities. Should the organization fail to follow the guidelines as set forth in the revenue rulings, it is doubtful that exempt status can be achieved under either provision.

## FEDERAL FUNDING PROGRAMS

If you have additional questions regarding the programs, you can contact the nearest local HUD office or Director, Multifamily Division in Washington, D.C., telephone number (202) 755-5866. For a more detailed description of these and other related Federal programs you should consult the Catalog of Federal Domestic Assistance which is published annually by the Office of Management and Budget.

1. Section 236 of the National Housing Act, as amended in 1968; Public Law 90-448; 12 U.S.C. 1715 - Rental and cooperative housing for lower-income families. Under this program, organizations may obtain a HUD-insured mortgage at the market interest rate. Assistance payments are made by HUD to the lender, and may bring the effective interest rate paid by the organization down to as low as one percent. Benefits received in this way are passed on to eligible tenants in the form of reduced rents. Tenants pay at least 30 percent of adjusted income, but not in excess of fair market rent. The program is currently inactive, i.e., no new projects or applications are being accepted.

2. Rent Supplement Program. HUD makes monthly payments to owners of rental housing projects to make up the difference between the partial rental payments of eligible tenants and the market rental, but the payments may not exceed 70 percent of the market rent. Tenants pay between 25 to 30 percent of their adjusted monthly income for rent, but in no event more than market rent. HUD assistance ceases when tenant's adjusted income exceeds the maximum allowable for receiving the benefits. Families must be within the income limits prescribed for admission to Section 8 housing in order to qualify for benefits under this program. Currently, no applications for new projects are being accepted; however, tenants may apply for admission to existing projects. Note that all existing FHA-insured projects are being converted to the Section 8 Housing Assistance Payments program.

3. Section 8 of the Housing Act of 1937, as amended; Public Law 75-412; 42 U.S.C. 1401-1435. The program provides housing assistance payments for lower income families, and low income single persons who are elderly, disabled or handicapped. To qualify for the program, families must be very low-income (whose income does not exceed 50 percent of the median income of the area). Tenants are required to contribute up to 30 percent of adjusted family income toward the approved rent due the owner.

4. Section 202 of the Housing Act of 1959, as amended by the Housing and Community Development Act of 1974, Title II; Public Law 86-372; 12 U.S.C. 1701q - Directs loans to nonprofit companies to finance the construction or rehabilitation of rental or cooperative housing and related facilities (such as central dining) for the elderly and handicapped.

5. Section 221(d)(3) of the National Housing Act, as amended in 1954; Public Law 83-560; 12 U.S.C. 1715(1) - Mortgage insurance for low and moderate income housing at market rate interest with rent supplement. Market-rate mortgage insurance is provided for the construction or rehabilitation of rental or cooperative housing of five or more units for persons whose incomes are determined by HUD to be low or moderate. The housing may be primarily for the elderly, or it may combine elderly and family housing. Section 221(d)(3) housing projects may include commercial services, recreation and social area, and infirmaries.

6. Section 231 of the National Housing Act; Public Law 86-372; 73 U.S.C. 654; 12 U.S.C. 1715(u) - Mortgage insurance for housing for the elderly. Mortgages are insured by HUD-FHA to finance new or rehabilitated rental housing of eight or more dwelling units specifically designed for persons over 62 or those who are handicapped.