

RD AN No. 3923 (1944-E)
December 4, 2003

TO: State Directors and Rural Development Managers
Rural Development

ATTENTION: MFH Program Directors and Coordinators

FROM: Arthur A. Garcia *(Signed by Arthur A. Garcia)*
Administrator
Rural Housing Service

SUBJECT: Processing Section 515 Loan Requests
Project Designations and Bedroom Mix

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance and to clarify RD Instruction 1944-E as it pertains to the processing of section 515 loan requests.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 3806 (1944-E), dated December 13, 2002.

IMPLEMENTATION RESPONSIBILITIES:

When processing section 515 loan requests, preliminary eligibility and feasibility reviews must be made. These reviews will include a review of the market and whether requests meet the requirements of Exhibit A-7 of RD Instruction 1944-E. Loan requests that do not meet the requirements of Exhibit A-7 must be returned to applicants with the reasons they were not considered.

EXPIRATION DATE:
December 31, 2004

FILING INSTRUCTIONS:
Preceding RD Instruction 1944-E

RD Instruction 1944, Exhibit A-7 provides a list of information that must be submitted with all loan requests for section 515 loans. In part, paragraph II of Exhibit A-7 states that:

1. market studies must assess the need and demand for both family and elderly renter households;
2. the type of complex that is proposed by the applicant must reflect the greater proportionate need and demand of the community, that is, the share or percentage of the community's total rental units that are designed for the elderly will be compared to the community's share of elderly households, and the share of total rental units for families will be compared to the share of family households in the community;
3. the bedroom mix of the proposed units must reflect the need in the market area based on renter household size and the bedroom mix of existing units; and,
4. market studies will include the analyst's recommendation for the number, type, and size of units.

Decisions concerning the type of project that should be built, whether family or elderly, must be based on a determination of proportionate need. Likewise, the bedroom mix of the proposed units must be based on market need. This will often mean that there should be more than just one and two bedroom units. Market studies must support these decisions.

When determining the greater proportionate need and demand of the community (as discussed in paragraph number 2 above), consideration should only be given to the income eligible population and the affordable rental housing (subsidized and unsubsidized) that exists for that population. In addition, persons should not be considered if they lack sufficient income to live in the housing that is being proposed. For example, persons needing rental assistance should not be considered unless the proposed project will have rental assistance.

The above factors must be considered during the Agency's preliminary eligibility and feasibility review. In accordance with § 1944.231(b)(6)(ii), loan requests that are not complete, or that do not meet the requirements of Exhibit A-7, will be returned to the applicant with the reason it was not considered.

The Fair Housing Act (FHA) prohibits discrimination against families with children. Applicants may feel that FHA is being violated if they encounter opposition to developing family housing. If so, they should be advised of their right to file a complaint with the U.S. Department of Housing and Urban Development (HUD). HUD is responsible for processing complaints that allege violations of FHA.

Complaints can be filed with HUD by calling (800) 669-9777 or online at www.hud.gov/complaints/housediscrim.cfm. If the applicant wishes, they may also file a civil rights complaint with USDA; however, in accordance with RD Instruction 2000-GGG, Rural Development's Civil Rights Staff will refer complaints that allege violations of FHA to HUD.

Lastly, Departmental regulations that implement section 504 of the Rehabilitation Act of 1973 require the fully accessible units to be comparable in variety to other units in the complex (i.e., 1, 2, and 3 bedrooms). Your State Civil Rights Coordinator or Manager or your State Architect can provide additional guidance concerning this and other accessibility issues.

Rural Development employees are encouraged to take affirmative measures to ensure that the public is properly informed about our programs. This may mean representing the Agency at public meetings and meeting with public officials.

Should you encounter problems or have questions concerning this notice, please contact the Multi-Family Housing Processing Division at (202) 720-1604. Through your State Civil Rights Coordinator or Manager and State Director, you should also make Rural Development's Civil Rights Staff aware of any potential civil rights issues.