



Fannie Mae®

Multifamily Selling and Servicing Guide

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Section 705

Restrictive Covenants and Affordable Regulatory Agreements

Requirements

For MAH Properties and non-MAH Properties, the Affordable Regulatory Agreement, except for a HUD Use Agreement, must be subordinated to the Lien of the Security Instrument if the agreement:

- grants rights, remedies, or powers similar to that of a secured creditor to any aggrieved party;
- impairs the Lien rights or priority of the Lien of the Security Instrument;
- contains any Borrower obligations other than the affordability restrictions;
- contains any rights or remedies to enforce the affordability restrictions other than specific performance or injunctive relief; or
- does not terminate upon Mortgage Loan foreclosure.

To subordinate the Affordable Regulatory Agreement to the Security Instrument Lien

- use an approved Subordination Agreement, or
- for an Affordable Regulatory Agreement with a subordinate loan, use Subordination Agreement (Affordable) (Form 6456).

Guidance

The rights, remedies, and powers of a secured creditor would typically include:

- the ability to appoint a receiver;
- the right to collect rents directly from the mortgaged property;
- the right to take possession of the mortgaged property;
- limitations on transferring title to you or to a subsequent transferee by foreclosure or deed in lieu;
- no requirement to give you notice of violations of or amendments to the Affordable Regulatory Agreement; and
- the ability to remove or replace the Property manager without your prior consent.



Glossary

A

Affordable Regulatory Agreement

Regulatory, land use, extended use, or similar agreement or recorded restriction limiting rents, imposing maximum income restrictions on tenants, or placing other affordability restrictions on the use or occupancy of the Property (whether imposed by a government entity or self-imposed by a Borrower per the Sponsor-Initiated Affordability Agreement (Form 6490)).

B

Borrower

Person who is the obligor per the Note.

Synonyms

- Borrowers
- Borrower's

H

HUD Use Agreement

Contract between HUD and the Borrower identifying Property use restrictions and default remedies for HUD programs such as Housing Assistance Payments and Rental Assistance Demonstration.

L

Lien

Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.

Synonyms

- Liens

M



Mortgage Loan

Mortgage debt obligation evidenced, or when made will be evidenced, by

- the Loan Documents, or
- a mortgage debt obligation with a Fannie Mae credit enhancement.

Synonyms

- Mortgage Loans
- Mortgage Loan's

P

Property

Multifamily residential real estate securing the Mortgage Loan, including the

- fee simple or Leasehold interest,
- Improvements, and
- personal property (per the Uniform Commercial Code).

Synonyms

- Properties
- Property's

S

Security Instrument

Instrument creating a lien or encumbrance on 1 or more Properties and securing the Loan Document obligations.

Synonyms

- Security Instruments
- Security Instrument's