

CHAPTER 5: PROJECT PHYSICAL CONDITIONS

5.1 INTRODUCTION

The existing portfolio of multi-family housing projects constitutes a major asset of the Government and the Agency, but the value of this asset depends upon the quality of its upkeep. This chapter describes the responsibilities of borrowers to maintain the physical condition of the project and of the Agency to exercise appropriate oversight of these responsibilities. The chapter describes the components of adequate physical maintenance, the role of the management plan, and the performance of a physical inspection of the project.

SECTION 1: PROJECT MAINTENANCE [7 CFR 3560. 103]

5.2 PURPOSE

The Agency has issued performance standards that describe the physical condition of a properly managed project. The Agency's interest in protecting the physical condition of projects that it has financed includes:

- Providing decent, safe, and sanitary affordable housing to the occupants;
- Protecting and enhancing the security of its investment; and
- Assuring compliance with all applicable State and local laws.

5.3 MAINTENANCE REQUIREMENTS AND STANDARDS OF PHYSICAL CONDITIONS

A. Standards of Physical Conditions

Borrowers are responsible for the long-term, cost-effective preservation of the housing project. The Agency has specified two types of requirements borrowers must meet:

- Performance standards for the project; and
- Procedures and systems that property managers must design and follow.

B. Performance Standards

The regulations in 7 CFR 3560.103(a)(3) specify the performance standards for meeting acceptable physical conditions. The performance standards describe the characteristics the Agency expects to see in a particular component or system, for example:

“The housing project must have a foundation that is free of evidence of structural failure, such as uneven settlement indicated by horizontal cracks or severe bowing of the foundation wall. Structural members must not have evidence of rot or insect or rodent infestation.

The housing project must have a roof that is free of leaks, defective covering, curled or missing shingles and which is not sagging or buckling.”

The performance standards have been incorporated into a physical inspection form to be completed by Agency staff during a site visit. They also have been incorporated into the certifications that accompany the management agreement for the project.

The standards include the following major categories:

- Standards that apply to the site on which the project is located;
- Standards that apply to the exterior maintenance of the building and of the common areas;
- Standards that apply to the interior of the building or buildings; and
- Standards that apply to common areas, such as hallways or elevators.

C. Maintenance Systems and Procedures

Effective maintenance is partly the result of regular routines and partly the result of promptly fixing small problems before they become major ones. Proper maintenance has a direct effect on the tenants’ perception of the quality of the housing project. Therefore, the Agency requires borrowers to institute a number of systems and procedures that the borrower must describe in the project’s management plan. The requirements for a management plan are described in Chapter 3.

Several systems are part of a sound management program:

- **Preventive maintenance.** Most maintenance work can be predicted and scheduled—this is typically described as preventive maintenance. The Agency requires managers to spell out procedures for scheduling routine tasks, such as garbage and trash removal, snow and ice removal, grounds upkeep, routine painting, and minor repairs. Procedures are also required for the routine maintenance of equipment consistent with service information provided by the manufacturer—biweekly or monthly routine oiling, adjusting, replacement of filters, safety checks of alarms, and outside lighting, etc.
- **Response to calls.** Good upkeep requires a speedy response to complaints or unforeseen problems. The Agency requires managers to establish a system for responding to tenant complaints or to unexpected malfunctions or damage, such as leaks, broken windows, etc.

- **Work orders.** Managers must know what has happened from the time a complaint has been received or a problem has been noted, to an inspection confirming the condition has been corrected. The Agency requires the project to have a work-order system that tracks the date a complaint is received, the inspection to verify the complaint, a report describing the required repair or corrective action, the assignment of the repair, the completion report, and final inspection noting satisfactory completion of the work.
- **Inspections.** Frequent, regular inspections are a major component of an effective maintenance system. The Agency requires management, at a minimum, to perform an annual inspection of each occupied unit and to inspect each unit at move-in and move-out. Inspecting a unit with the tenant at move-in and move-out establishes the condition of the unit at the time the tenant takes possession, and may help clarify responsibility for any damages that have occurred in the unit during the occupancy period.
- **Energy conservation.** Energy conservation efforts are an ongoing responsibility of project management. The Agency requires managers to establish effective systems to reduce energy consumption. These may include energy audits to determine cost-effective techniques of energy conservation, energy-efficient lighting, water-saving fixtures, low-flow toilets, energy-efficient appliances, insulation, caulking and weather-stripping, storm doors and windows, and regular cleaning and replacement of filters and other equipment.
- **Tenant damages.** The Agency requires management to establish a policy and implement a system to obtain reimbursement for damage caused by the tenant to the property beyond normal wear and tear. The policy is to be stated in the tenant's lease as described in Chapter 6 of this Handbook.
- **Accessibility issues.** The Agency requires the borrower and/or management to establish a policy regarding project and unit accessibility for applicants, tenants, and employees in accordance with applicable civil rights legislation.
 - ◇ In projects that were ready for occupancy on or before January 26, 1993, when public areas are altered, they must be altered to Americans with Disabilities Act Accessibility Guidelines (ADA/AG) standards. (Public areas are those areas used by individuals other than tenants and their guests. This includes offices used to pay bills or to inquire about service or employment, public restrooms, and buildings used for voting or public meetings.)
 - ◇ In projects that were ready for occupancy after January 26, 1993, public areas must be designed and constructed to ADA/AG standards.
 - ◇ In accordance with the Fair Housing Act, in Multi-Family Housing projects that were ready for occupancy on or before March 31, 1991, FHA/AG architectural requirements do not apply, even during project rehabilitation.

- ◇ In Accordance with the Fair Housing Act, in multi-family housing projects that were ready for occupancy after March 11, 1991:
 - ◆ All ground floor units in buildings with four or more dwelling units must be designed and constructed in a manner that is adaptable to individuals with disabilities.
 - ◆ All units must be adaptable if there is an elevator.
 - ◆ Covered Multi-Family Housing projects must have:
 - ✓ An accessible entrance on an accessible route;
 - ✓ Accessible public and common-use areas;
 - ✓ Usable doors;
 - ✓ Accessible routes into and through the dwelling unit;
 - ✓ Accessible light switches, electrical outlets, and environmental controls;
 - ✓ Reinforced bathroom walls; and
 - ✓ Usable kitchens and bathrooms.

Projects that were constructed (or which had substantial alterations) after June 11, 1982 must be constructed in accordance with the UFAS standards.

- 5 percent of the units or one unit whichever is greater must be fully accessible
- The mix of units are to be comparable to the variety of other project (i.e., 1,2,3 bedrooms)
- All common area must be accessible per UFAS

The electronic Multi-Family Housing Project Management and Occupancy Review Form available in Multi-Family Information System (MFIS) includes space for the Loan Servicer to comment on the adequacy of the maintenance systems adopted by project management.

D. Requirements for Labor Housing

There are no separate performance standards for year-round labor housing and rental or cooperative housing. Seasonal labor housing must meet conventional performance standards and must have insulation as necessary to protect the facility during the off-season period.

5.4 CORRECTING DEFICIENCIES

There are a number of ways in which the need for maintenance is identified:

- Management staff may uncover, anticipate, or expect such maintenance;
- Tenants may make complaints; and
- Agency staff may identify defects in the course of a site visit.

No matter how the problem was identified, the borrower is responsible for correcting it.

The borrower is responsible for adequate maintenance and upkeep of the project that complies with Agency performance standards. The Agency understands, however, that property maintenance is an ongoing process and that there may be instances when diligent borrowers are temporarily unable to achieve 100 percent compliance with Agency standards. In such instances, the Agency will not penalize borrowers—as long as it is evident that the borrower is actively striving to return to full compliance, as soon as possible (see the standards listed in 7 CFR 3560.103).

This flexibility is not extended to projects where the deficiencies are so extensive that the property would be declared in substantial noncompliance. In these instances, the projects' viability is called into question, as well as the effectiveness of the management's maintenance program. The Agency should coordinate with and or report to State and local inspection authorities, where applicable, when health and safety issues exist at a property.

The borrower shall immediately inform the Agency of any deficiency for which correction requires repairs that cannot be paid out of project operating funds and immediately initiate procedures to access project reserves (see Chapter 4 of this Handbook). The Agency will in turn provide the borrower with a timeframe for completing the repairs. If the borrower cannot meet the Agency required timeframe, then they must provide documentation and justification why they cannot meet such a timeframe.

5.5 PAYING FOR MAINTENANCE EXPENSES

MAINTENANCE IS PAID FOR IN TWO WAYS:

- Routine physical maintenance, such as repainting an empty unit, replacing a broken window, snow removal or grounds upkeep, is part of the operating budget and paid for out of annual operating income.
- Major capital expenditures are paid for by withdrawals from the reserve account. Capital expenditures are addressed as long-term improvements on the front of the operating budget.

Rule-of-Thumb

A capital expenditure is typically defined as an expenditure on an item for which the useful life is greater than one year. For example:

- Repaving the parking lot is a capital cost; fixing a pothole is an operating cost.
- Repainting the exterior of the entire project is a capital expenditure; repainting units on a routine basis is considered routine maintenance.

Chapter 4 of this Handbook describes the process for accessing the reserve account to pay for major capital improvements.

SECTION 2: CAPITAL PLANNING

5.6 OVERVIEW

This section describes how borrowers, with assistance from Agency staff, can plan for major capital expenses and how to pay for them. This type of planning can take many forms. The two most common forms used by the Agency are an annual capital expenditure budget and a capital needs assessment. Refer to Chapter 4 of this Handbook for preparation of an annual capital expenditure budget.

5.7 CAPITAL NEEDS ASSESSMENT

A. Overview

A capital needs assessment (CNA) identifies the immediate and future capital needs of a project. It is based on a physical inspection and a life-cycle analysis of a project's major building components systems, equipment, and exterior amenities, such as the site lighting and parking lots. The CNA includes a replacement schedule that anticipates the useful life of each item, and estimates when they will need to be replaced and the cost. Preparation of a CNA is an eligible project expense.

B. General Criteria:

- A capital needs assessment should be prepared at a reasonable cost by an individual or firm with professional experience in multi-family housing design, construction, cost estimating or similar qualification.
- The CNA should be prepared in accordance with generally accepted industry practices.
- The assessment should include the detailed items listed on the *Form RD 3560-11* Multi-family Housing Physical Inspection Report. The assessment time period should be between 10 and 20 years.
- The estimated repair and replacement costs and estimated useful life spans for the components should be based on data from a nationally recognized source, such as RS Means "Repair and Remodeling Cost Data" and Marshall and Swift "Residential Cost Handbook".

C. Determining a Project's Capital Needs

The amount required for deposit into the replacement reserve account is established for new projects during the loan origination phase, based in part on a life-cycle cost analysis of selected materials going into the project (see 7 CFR 3560.65). For information on conducting life-cycle analyses, refer to Chapter 3 of HB-1-3560.

For existing projects, the Agency may require the development of a capital needs assessment in the following circumstances:

- When ownership of the project is transferred;
- When the loan is reamortized;
- When there is a writedown of the project loan; or
- At the borrower's request.

D. Agency Review

Capital needs assessments and a proposed, updated annual operating budget, including a revised capital plan and any proposed increase in contributions to replacement reserves and project rents, are submitted to the Field Office for Agency review. Loan Servicing Staff should review the requests based on Agency guidance and the budget review procedures in Chapter 4.

SECTION 3: AGENCY OVERSIGHT OF BORROWER PERFORMANCE

5.8 OVERSIGHT DURING DESIGN AND CONSTRUCTION

Agency oversight of the borrower's capacity to maintain the physical project in compliance with its standards and requirements begins during the loan origination phase. As part of its design review, the Agency examines plans and working drawings to see whether the project has been designed for easy maintenance and long-term durability.

Borrowers must describe the systems and procedures that will be used to maintain the project during the occupancy period in the management plan. Agency staff reviews the proposed management plan for compliance in accordance with procedures described in Chapter 3. Agency staff should analyze the description of the maintenance systems in the management plan, noting any points that appear unrealistic, incomplete, or incorrect.