

## ATTACHMENT 7-B

### PROPERTY RIGHTS VALUED

In identifying the subject property, the appraiser must state and should define the particular rights or interests being valued. A thorough discussion is warranted in appraisals of fee simple estates subject to restrictive-use agreements and short-term leases. *Uniform Standards of Professional Appraisal Practice (USPAP)* Standards Rule 1-2(e)(ii) requires the appraiser to identify the real property interest to be valued.

The property interest to be valued in the appraisal of a Section 514/515 project, when the value type to be concluded is *market value*, is the *fee simple estate*. This property interest is subject to short-term leases and should therefore be referred to as the *fee simple estate, subject to short-term leases*.

A Section 514/515 affordable housing project is usually subject to a restrictive-use agreement imposed by the U.S. Department of Agriculture (USDA) Rural Development that places restrictions on the property for a specified period of time. These restrictions pertain to use, transfer, and operation of the property. They include rent limits and restrictions on tenant eligibility based on income. Additionally, when tax credit financing is involved, these properties have deed restrictions imposed by the Low-Income Housing Tax Credit (LIHTC) program. These restrictions are a type of *encumbrance*. The 4<sup>th</sup> Edition of the Dictionary of Real Estate Appraisal defines *encumbrance* as ‘an interest or right in real property that may decrease or increase the value of the fee estate but does not prevent its conveyance by the owner. An encumbrance effects a permanent reduction in an owner's property rights, while a lien represents a claim against the owner's property rights, which may or may not become permanent. Mortgages, taxes, and judgments are liens; restrictions, easements, and reservations are encumbrances.’

The property interest to be valued in the appraisal of a Section 514/515 project, when the value type to be concluded is *market value, subject to restricted rents*, is neither the *fee simple estate*, nor the *leased fee estate*, nor the *leasehold estate*. The 4<sup>th</sup> Edition of the Dictionary of Real Estate Appraisal defines *fee simple estate* as “absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.” Since Section 514/515 properties are encumbered with restrictive-use agreements, and sometimes LIHTC deed restrictions as well, the property interest to be valued is not the *fee simple estate*. However, the property interest to be valued could reasonably be referred to as the *fee simple estate, as restricted, subject to short-term leases*. To comply with *USPAP*, the appraiser should identify this as the property interest to be valued and provide a description of these property rights and the restrictions involved.