HOTMA: Applicant Fact Sheet, Assets, Asset Exclusions, and Limitation

Definition of Assets

Net family assets: the net cash value of all **assets** owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment.

Eligibility restrictions due to family assets

HOTMA restricts families from receiving assistance in certain affordable housing programs if their **net family assets** exceed $100,000* or if the family owns real property (i.e. house, condo, mobile home) suitable for the family to live in. There are qualifications and exemptions from both requirements.

** 2024 amount adjusted annually*

Property management companies may not waive the asset requirements established by HUD Policy.

Determining net family assets

- Property Management Companies must include the value of any business or family assets disposed of by an applicant prior to leasing. For two years following the date of disposal of business of family, assets or disposition of trust by applicants (regardless of whether the disposal was less than fair market value) property management companies must include the value of the amount received. The only exception is in foreclosure or bankruptcy.

- In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.
- Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify an exclusion from family assets.

Income from Assets

In general, income from assets is considered income. If it is possible to calculate actual returns from an asset, the Property Management Company should use that amount.

If it is not possible to calculate an actual return on an asset, and:

- The net family assets are $50,000* or less, the imputed income from that asset is excluded
- The net family assets are over $50,000, * the Property Management Company must impute (calculate) income for the asset based on the current passbook savings rate of .4%*, as determined by HUD

* *2024 amount adjusted annually*

Restriction on Owning Real Property Suitable for Occupancy

A family cannot receive benefits if they have "present ownership interest in, a legal right to reside in, and the effective legal authority to sell, (based on state or local laws of the jurisdiction where the property is located), real property that is suitable for occupancy by the family as a residence."

The restriction on owning real property does not apply to:

- Property jointly owned with someone else, and occupied by the other owner who is not a member of the household receiving benefits.
- A victim of domestic violence, dating violence, sexual assault, or stalking.
- A family that is offering the property for sale. Documentation of sale is required.

- **A family that owns a property may show it is not "suitable for occupancy" if it:**
  - Does not meet the disability-related needs for all members of the family.
    - » Examples: Physical needs, proximity to transit, need for additional bedrooms or space, etc.
  - Is not sufficient for the size of the family.
  - Is located so as to be a hardship for the family.
    - » Example: the location would be a hardship for the family's commute to work or school is unsafe because of physical condition. Unless issues can be easily remedied.
    - Cannot be a residence per local or state laws.

    » Example: a storefront zoned for commercial use only

Property ownership: the Property Management Company may accept self-certification that the "family does not have any present ownership interest in any real property." Documentation required.

- The statutory self-certification *only* asks about ownership, and does not address the other elements of the restriction (such as a legal right to reside in, and the effective legal authority to sell the property).
- Property Management Companies can use a form with the statutory self-certification question as well as follow-up questions related to other elements.

If family declares a property and asks for an exemption because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking:

- The property management company must accept self-certification of the family member
- 24 CFR 5.2007 applies
    - » Confidentiality rules
    - » Restrictions on document requests
- HUD expects to update VAWA-related forms at a later date
    - » Form HUD 5380 Notice of Occupancy Rights under VAWA
    - » Form HUD 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

The questions on self-certification for owning real property are as follows:

Is the property is considered unsafe to reside in when the property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied. *If yes, please provide supporting documentation.*
Is there any reason the family may not reside in the property under State or local laws of the jurisdiction where the property is located? *If yes, please provide supporting documentation.*
Is any owner of the property a survivor of a VAWA crime *(domestic violence, dating violence, sexual assault, stalking)* and such status prevents access to or use of the home or is there a possibility that the survivor could be in imminent danger if the survivor attempted to access the home?
Is anyone living in the property?
If yes, is there a formal rental agreement? *If yes, please provide a copy of the executed rental agreement.*
Is the property for sale? *If yes, please provide listing contract.*
Is the property large enough for the size of the family?
Is the property part of a retirement account? *If yes, please provide appropriate documentation.*
Is the property part of an irrevocable trust? *If yes, please provide appropriate trust documentation.*
Is the property jointly owned by a member of the family and at least one non-household member who does not live with the family, if the person resides in the jointly owned property? *If yes, please provide current tax records.*
If there are any disabled family members, does the home provide for the disability-related needs? *(e.g., physical accessibility requirements, proximity to accessible transportation, etc.)*
Is the property located so that the distance or commuting time between the property and the family's place of work or a family member's educational institution would create a hardship for the family? *(e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner)*