




U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-0500

January 28, 2022

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR: Alexis M. Pelosi, Senior Advisor, Community Planning and Development, DG

FROM: 
Gayle E. Bohling, Deputy General Counsel for Operations,
CAG

SUBJECT: Response to Request for Waiver of HUD Supplemental Ethics Regulation

This responds to your request for a waiver of HUD's Supplemental Standards of Ethical Conduct regulation at 5 C.F.R. § 7501.104(a)(3)(i), which prohibits Department employees, spouses and minor children, from receiving, directly or indirectly, Department subsidies provided pursuant to Section 8 of the United States Housing Act of 1937, unless the Designated Agency Ethics Official or Alternate Designated Agency Ethics Official waives this provision.

According to your request, your husband is a managing member of Restore Utah, LLC, a joint venture formed in 2012 with Goldman Sachs Urban Investment Group ("Goldman"). As part of this venture, Restore Utah purchases and renovates single family and multifamily properties in the State of Utah. Restore Utah has acquired approximately 1,000 properties/units, but has sold, or is in the process of selling, most of them. The sales should be completed by the middle of 2022. Restore Utah and Goldman are also raising about \$35 million for a new fund to acquire additional multifamily properties (approximately 750 units) over the next two years in a number of Western states. All of the properties purchased to date and going forward will be purchased without any HUD financing or subsidies. However, approximately 5-10% of renters of Restore Utah properties have historically used Section 8 vouchers. Section 8 voucher holders are not targeted by Restore Utah. However, Restore Utah will rent to Section 8 tenants in the normal course of business if someone applies and their application is accepted.

Your husband is generally only involved with the overall strategy and management of Restore Utah and is not involved with the day-to-day management of individual properties or individual tenants. He does not interface with federal or state agencies regarding Section 8 vouchers or other subsidies. His ownership stake in Restore Utah is approximately ^{(b)(6)}% and Restore Utah has a 5% stake in the joint venture with Goldman. You have no personal involvement in Restore Utah and have no plans to be involved in the future.

After giving this matter careful consideration, I, as the Department's Alternate Designated Agency Ethics Official, have decided to grant your waiver request. The HUD Supplemental Standards of Ethical Conduct regulation at 5 C.F.R. § 7501.104(a)(3) prohibits HUD employees, spouses and minor children from directly or indirectly receiving any Section 8 funds absent exceptional circumstances. However, under 5 C.F.R. § 7501.103, I am permitted to waive these restrictions in cases of undue hardship and provided it will not result in conduct inconsistent with other applicable ethics statutes and regulations and where enforcement is not otherwise necessary to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered. In this case, you and your spouse's interest in the Section 8 vouchers comes entirely from your husband's primary profession. You have no personal involvement in the business. It is also unlikely your official duties will have any effect on Restore Utah or the Section 8 program in general. In addition, because Restore Utah is your husband's primary profession, it would be impractical and an undue hardship for your husband to divest from the business or prohibit the business from renting to Section 8 tenants. Further, your husband is not personally involved with the management of the individual properties and tenants and Restore Utah does not specifically target Section 8 tenants. For these reasons, I do not believe a waiver would erode public confidence in the impartiality and objectivity of the Department.

Pursuant to 18 U.S.C. § 208, you are still prohibited from working on any official matter which would have a direct and predictable effect on the financial interests of Restore Utah. Further, under 5 C.F.R. § 7501.105(a)(1), employees are prohibited from any outside employment with a business related to real estate. Therefore, you must continue to have no personal involvement with Restore Utah.

If you should have any further questions regarding this matter, please contact Lindsey Allen, Assistant General Counsel, Ethics and Appeals Division at (202) 695-6509 or lindsey.a.allen@hud.gov.