Frequently Asked Questions (FAQ)

on Built-to-Rent Mortgagee Letter 2026-12

(As of 10/29/2026)

General Topic 1: Fair Housing Act and Other Accessibility Design and Construction Issues.

Q1.1: *Why wasn't Requirement #3 ("Usable Doors") exempted for BTR, when Requirements #1, 4, 5, 6, and 7 were? Does this mean even a single-family BTR unit needs 32" doors throughout?*

Answer: Requirement #3 described in the Fair Housing Act Design Manual covers door specs for both common areas (e.g., community room) and covered dwelling units. If none of the dwelling units at the property are covered multifamily dwellings (i.e., all are detached single-family; duplexes; triplexes), the subject property is also exempt from Requirement #3. If the property includes buildings containing four or more units, only those buildings are subject to Fair Housing Act Accessibility requirements but any covered common use area/building at the subject property must be accessible, including Requirement #3 for the doors.

Q1.2: *For sites with no covered multifamily dwelling units at all, the Fair Housing Act's common-area accessibility rule (Requirement #2) technically doesn't apply — so why does ML Section III.4(c) still require "common use areas" and "site amenities" to meet Fair Housing Design Requirements? And what counts as a "site amenity" for this purpose?*

Answer: If the entire property is composed only of buildings with fewer than 4 units (no covered MF dwellings anywhere on site), Requirement #2 does NOT apply, and no common-use areas are required to be accessible under the ML. However, the ADA may still separately apply to public-use spaces such as a leasing office.

General Topic 2: BTR Eligibility of Existing 223(f) Portfolio / Property Age.

Q2.1: *Can an existing (already-built, non-newly-constructed) BTR project get a waiver to qualify for 223(f)? Would HUD make exceptions for affordable projects or BTR-like projects previously approved and insured under previous guidance on Subdivisions for Rent, for example?*

Answer: Only newly constructed projects are eligible for 223(f) under the BTR ML. Section 223(f) refinancing was limited to recently-built transactions and HUD will not consider older transactions for eligibility regardless of whether they meet an affordable mission priority or have been previously approved and insured.

Q2.2: *Is the "3 years" measured from the last/final Certificate of Occupancy (CO)? The ML says "certificate of occupancy dated less than 3 years prior to application" — is that the last CO (consistent with HUD's existing 3-year-rule guidance)?*

Answer: Generally, the last/final CO will govern. HUD recognizes that BTR construction periods can run longer than typical multifamily projects and the CO dates may span over a year or two from the first to the last/latest. However, the gap between the first and last CO should not be lengthy, and a significant number of the COs must be within 3 years. For example, a BTR property completed 5 years ago that is now building a small final phase, with no intervening continuous phased construction activities, would not be eligible for a 223(f) encompassing the entire project. However, a project with initial COs 4 years ago but the majority of remaining CO's dated within the last 3 years would be eligible.

Q2.3: *If a project is more than 3 years past its Certificate of Occupancy, and one building has fewer than 4 units (while most buildings have 4+), is it still eligible for FHA-insured financing?*

Answer: Such a project is characteristically "horizontal" multifamily since a significant majority of the buildings are not BTR type structures, and therefore eligible for FHA-Insured financing under a traditional 223(f) application, not covered under the BTR ML. For properties with a mix of BTR structures (single family, duplex and triplex) and traditional multifamily structures (4+ attached units), HUD will review and make appropriate determinations.

General Topic 3: Partial Release of Collateral.

Q3.1: *The ML states HUD won't approve partial release of individual houses/parcels during the loan term (to avoid HUD being perceived as a single-family construction lender) — but what about an eminent domain taking or the need to grant a utility easement? Is HUD's treatment the same as for any non-BTR transaction in those cases?*

Answer: Neither of those stated examples are voluntary releases or sales of buildings or units from the collateral, and appear to be compulsory in nature. HUD will review any such cases involving forced abandonment or partial release of the parcel/site under the existing Asset Management process.

General Topic 4: BTR Properties with 223(a)(7) Refinance Loans and 241(a) Supplemental Loans.

Q4.1: *Can a 223(a)(7) loan be used to refinance BTR properties?*

Answer: Previously approved Section 221(d)(4) and 223(f) loans on BTR properties approved subject to this ML will be eligible for refinancing with 223(a)(7) loans. Any existing low-density properties previously approved as "horizontal" multifamily property may also be eligible for 223(a)(7) loans.

Q4.2: *Can a 241(a) supplemental loan be used on a BTR deal, given the ML only names 221(d)(4) and 223(f) as eligible?*

Answer: Section 241(a) is a supplemental loan to an existing FHA-insured first mortgage. As long as the existing first mortgage on a BTR property was processed and approved under this BTR ML, HUD anticipates that 241(a) supplemental loans can be used in the following scenarios, with the understanding that HUD will not permit concurrent processing of the 221(d)(4) or 223(f) BTR loan with a 241(a):

a. A subsequent 241(a) loan for general repairs and improvements on a BTR project approved subject to this ML.
b. A 221(d)(4) loan was used to finance the first phase of the BTR development under this ML, and a future proposal under 241(a) is submitted to finance a subsequent new construction addition on the existing site or on an immediately adjacent lot that will be added to form one contiguous and cohesive overall site with additional units. Any added land must meet all the original BTR site requirements (no unsold lots from a failed adjacent subdivision, must be one self-contained collateral parcel, etc.)
c. A recently-built project takes out the construction loan using 223(f) under this ML, and a future proposal under 241(a) is submitted to finance a subsequent new construction addition on the existing site or on land contiguous to the site that can be added to the collateral. Similar to the 221(d)(4) example above, land added for the new 241(a) addition must meet all the BTR site requirements.

In all cases, the 241(a) programmatic provisions and restrictions will apply, including scattered-site prohibitions and size restrictions limiting the size of the 241(a) addition to no larger than the original project.