

**Mayor's Office of Housing and Community Development  
Policy on Ground Leases**

Effective Date: August 21, 2015

This MOHCD Ground Lease Policy applies to all developments seeking City, including recapitalization projects with existing MOHCD loans. Developers are advised to include these assumptions into their development and operating budgets.

**A. GROUND LEASE TERMS**

Term	Minimum 55 years, can be extended to coincide with term of permanent debt upon permanent conversion. Maximum 99 years.
Annual Rent	Annual Rent is equal to 10% of appraised Fair Market Value and is comprised of Base Rent and Residual Rent. Annual Rent shall be re-determined on the fifteenth anniversary of the date of the First Lease Payment Year and every fifteen (15) years thereafter, and shall be equal to ten percent (10%) of the appraised unrestricted value (Fair Market Value) of the Site as determined by an MAI appraiser selected by and at the sole cost of the City.
Base Rent	\$15,000. Base Rent is must pay operating expense, though owner may request deferral of payment upon demonstration of insufficient cash flow to pay. MOHCD may allow lower Base Rent payment if appraised value is de minimus or if all units are supportive housing or special needs and are supported with City operating subsidy.
Residual Rent	Residual Rent and MOHCD loan repayments shall, in the aggregate, not exceed 2/3 of Surplus Cash. MOHCD shall approve the distribution of cash flow to Residual Rent and/or MOHCD loan payments pursuant to project tax projections and feasibility requirements. Unpaid Residual Rent shall accrue unless waived by MOHCD for project feasibility purposes.
Surplus Cash	See Residual Receipts Policy.
Incentive Management Fee	One-third (1/3) of the Residual Receipts is available to the project sponsor as incentive management fee.
Affordability Restrictions	Residential rents shall not exceed SF unadjusted 60% AMI for appropriately sized households, unless specifically approved by MOHCD. In the event of a default or loss of operating subsidies, rents may not exceed 60% TCAC AMI.
Assignment	

	Cannot be assigned without prior approval of MOHCD.
Title	Security for any other loans can only be recorded against the leasehold interest and not fee interest. Without exception, this also applies to any State HCD funding.

**B. INTENT**

The intent of the Ground Lease is to ensure the long term affordability and viability of publicly funded housing.

**C. WAIVER OF THE GROUND LEASE POLICY**

The Citywide Affordable Housing Loan Committee may recommend a waiver or modification of any portion of this policy for the purpose of assuring project feasibility. All recommendations related to this policy are subject to the Mayor’s approval in his or her sole discretion.

**D. POLICY IMPLEMENTATION**

This policy applies to any development that has not received its gap financing commitment from MOHCD by the effective date of the policy.