

fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by §1720.240 or failure to appear at a hearing duly scheduled shall result in an appropriate order under §1710.505 of this chapter withdrawing the State's certification. Such order shall be effective as of the date of service or receipt.

[45 FR 40499, June 13, 1980]

§1720.238 Notices of proceedings to terminate exemptions pursuant to §§1710.14, 1710.15 and 1710.16 of this chapter.

A proceeding to terminate a self-determining exemption under §1710.14 or an exemption order under §1710.15 or §1710.16 is commenced by issuance and service of a notice which shall contain:

(a) In the case of an exemption under §1710.14, an identification of the developer and subdivision to which this notice applies. In the case of an exemption under either §1710.15 or §1710.16, an identification of the exemption order to which the notice applies.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the basis for the Secretary's determination that further exemption from the registration and disclosure requirements is not in the public interest or that the sales or leases do not meet the requirements for exemption, or both.

(c) A notice of hearing rights of the respondent under §1720.239 and of the procedures for invoking those rights.

(d) A notice that failure to file an answer or motion as provided under §1720.240 will result, in the case of a notice issued under §1710.14, an order terminating eligibility for the exemption, or, in the case of a notice issued under either §1710.15 or §1710.16, an order terminating the exemption order.

[45 FR 40499, June 13, 1980, as amended at 54 FR 40868, Oct. 4, 1989]

§1720.239 Hearings—notice of proceedings pursuant to §§1710.14, 1710.15 and 1710.16 of this chapter.

(a) A developer, upon receipt of a notice of proceedings issued under

§§1710.14, 1710.15 and 1710.16 of this chapter, may obtain a hearing by filing a written request contained in the notice of proceedings. The request must be filed within 15 days of receipt of the notice of proceedings and must be accompanied by an answer conforming to the requirements of §1720.245. Filing of a motion for a more definite statement under §1720.315 shall alter the period of time to request a hearing in accordance with §1720.240.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 45 days of receipt of this request. The time and place for the hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties of their representatives.

(c) Failure to answer within the time allowed by §1720.240, or failure to appear at a duly scheduled hearing shall result in an appropriate order under §1710.14 §1710.15 or §1710.16 of this chapter terminating the developer's exemption. The order shall be effective as of the date of service or receipt.

[45 FR 40500, June 13, 1980, as amended at 54 FR 40868, Oct. 4, 1989]

§1720.240 Time for filing answer.

(a) Within 15 days after service of the notice or order, the respondent shall mail or submit to the Docket Clerk for Administrative Proceedings, Room 10278, Department of Housing and Urban Development, Washington, DC 20410, an answer and three copies thereof signed by the respondent or attorney. Unless a different time is fixed by the Secretary, the filing of a motion for a more definite statement of the allegations shall alter the period of time in which to file an answer as follows:

(1) If the motion is denied, the answer shall be filed within 15 days after service of the denial.

(2) If the motion is granted in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) If a notice or order is amended pursuant to §1720.255(a), the respondent shall have 15 days after service of the

amended notice or order within which to file an answer.

§ 1720.245 Content of answer.

(a) An answer to a notice or order shall contain:

(1) Specific admission, denial or explanation of each fact alleged in the notice or, if the respondent is without knowledge thereof, a statement to that effect; and

(2) A brief statement of the facts constituting each defense.

(b) Allegations not answered in this manner shall be deemed admitted.

§ 1720.250 Presumption of hearing request.

When an answer to a suspension notice, a notice of proceedings, or a suspension order is timely filed but a respondent has failed specifically to request a hearing, the answer shall be deemed to constitute such a request.

§ 1720.255 Amendments and supplemental pleadings.

(a) *Amendments.* Prior to the receipt by the Docket Clerk for Administrative Proceedings of an answer to a notice or order, that notice or order may be amended as a matter of course. After the receipt of an answer, the administrative law judge may allow appropriate amendments to pleadings by motion whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.* When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.* The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 1720.260 Prehearing conferences.

(a) Where it will expedite the proceeding, the administrative law judge may direct or allow the parties or their representatives to appear for a conference to consider:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to the pleadings;

(3) Stipulations and admissions of fact and the contents and authenticity of documents;

(4) Expedition in the discovery and presentation of evidence;

(5) Matters of which official or judicial notice will be taken; and

(6) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in evidence in the course of the proceeding.

Prior to the conference, the administrative law judge may direct or allow the parties or their representatives to file memoranda specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the administrative law judge may require the parties to correspond for the purpose of accomplishing any of the objectives set forth in this section.

§ 1720.265 Reporting—prehearing conferences.

Prehearing conferences shall be stenographically or mechanically reported; and the administrative law judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

MOTIONS

§ 1720.305 Motions—filing requirements.

During the time a proceeding is before an administrative law judge, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties.