when funds for the project were reserved, or when the commitment to insure the mortgage was issued or, of not then so designated, that is designated for such occupancy in an effective amendment to the regulatory agreement covering the project, made pursuant to the project owner's request, and that is assisted or insured under one of the programs identified by HUD through notice; or

(C) For which preference in tenant selection is given for all units in the project to elderly or disabled families and that is owned by HUD or assisted under one of the programs identified by HUD through notice.

(ii) This term does not include health and care facilities that have mortgage insurance under the National Housing Act. This term also does not include any of the project owner's other property that does not meet the criteria contained in any one of paragraphs (1)(i)(A) through (C) of this definition, even if the property is adjacent to or under joint or common management with such specific property.

(2) *For purposes of Public Housing programs:* Any project assisted under title I of the United States Housing Act of 1937 (other than under section 8 or 17 of the Act), including any building within a mixed-use project, that was designated for occupancy by the elderly or persons with disabilities at its inception or, although not so designated, for which the PHA gives preference in tenant selection (with HUD approval) for all units in the project (or for a building within a mixed-use project) to elderly or disabled families. For purposes of this part, this term does not include projects assisted the Low-Rent Housing Homeownership Opportunity program or under title II of the United States Housing Act of 1937.

Project owner means an owner (including HUD, where HUD is the owner) or manager of a project for the elderly or persons with disabilities, or an agent authorized to act for an owner or manager of such housing.

Public Housing Agency (PHA) is defined in § 5.100.

[61 FR 5202, Feb. 9, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

§ 5.309 **Prohibition against discrimination.**

Except as otherwise specifically authorized under this subpart no project owner or PHA that owns or manages a project for the elderly or persons with disabilities may:

(a) As a condition of tenancy or otherwise, prohibit or prevent any tenant of such housing from owning common household pets or having such pets living in the tenant's dwelling unit; or

(b) Restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the person's ownership of common household pets or the presence of such pets in the person's dwelling unit.

§ 5.312 **Notice to tenants.**

(a) During the development of pet rules as described in §§ 5.353 or 5.380, the project owner or PHA shall serve written notice on all tenants of projects for the elderly or persons with disabilities in occupancy at the time of service, stating that:

(1) Tenants are permitted to own and keep common household pets in their dwelling units, in accordance with the pet rules (if any) promulgated under this subpart C;

(2) Animals that are used to assist persons with disabilities are excluded from the requirements of this subpart C, as provided in § 5.303;

(3) Tenants may, at any time, request a copy of any current pet rule developed under this subpart C (as well as any current proposed rule or proposed amendment to an existing rule); and

(4) Tenants may request that their leases be amended under § 5.321 to permit common household pets.

(b) The project owner or PHA shall provide to each applicant for tenancy when he or she is offered a dwelling unit in a project for the elderly or persons with disabilities, the written notice specified in paragraphs (a) (1), (2), and (3) of this section.

(c) If a PHA chooses not to promulgate pet rules, the notice shall be served within 60 days of the effective date of this part. PHAs shall serve notice under this section in accordance with their normal service of notice procedures.