



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

**AUG 10 2012**

The Honorable Ed Perlmutter  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Perlmutter:

Thank you for your letter of April 25, 2012, concerning Federal Housing Administration (FHA) condominium project approval requirements.

I would note at the outset that, because the risk associated with insuring an individual condominium unit is closely linked to the health of the condominium project in which it is located, FHA strongly believes that it is prudent to review and approve condominium projects prior to insuring units within them. This risk concern underlies the steps that FHA has taken to sharpen condominium rules, and it forms the basis for a number of the additional changes that are under consideration. However, we have also sought to balance the need to appropriately manage risk with the agency's mission of providing access to homeownership for lower wealth borrowers, particularly for first time homebuyers. And, in particular, as we move forward with new proposed regulations in the coming months, we will continue to focus on striking the proper balance between those two concerns.

The Housing and Economic Recovery Act of 2008 (HERA) provided FHA with the authority to issue new condominium guidance under an administrative notice until new condominium regulations are promulgated. Based on this authority, as you are aware, FHA has issued several mortgagee letters changing condominium project approval and processing requirements. The most recent changes to the baseline condominium policy requirements were published in Mortgagee Letter (ML) 2011-22 and the associated Condominium Project Approval and Processing Guide (Guide) on June 30, 2011.

Prior to enactment of HERA, FHA had two condominium approval options. One approval option was the submission of a complete approval package to the jurisdictional office for review and disposition. The second option was the Spot Loan procedure established to provide home mortgage insurance on individual units in condominium projects where there is little likelihood that the project's homeowners association would make the requisite changes to its legal documents (usually to benefit one association member) to obtain FHA approval. In guidance issued in 2009, the Spot Loan procedure was eliminated due to continued misuse of this procedure to facilitate sales on units in projects that did not meet FHA condominium project approval requirements. FHA determined that requiring full project approval for all condominiums was an appropriate measure to mitigate risk to the Mutual Mortgage Insurance (MMI) Fund.

As you note in your letter, a number of community associations have not submitted packages for review to have their project recertified or re-approved upon expiration, even though the expiration dates were extended at least twice. If a community association chooses not to have a project's eligibility recertified or re-approved, FHA case numbers will only be issued for streamline refinance transactions and HUD Real Estate Owned cases. All other FHA loan transactions will be

ineligible until the project is recertified or reapproved. Many associations are not requesting recertification or re-approval for a number of reasons including, but not limited to: project financial instability, insufficient insurance coverage, pending litigation actions, a reliance upon special assessments and/or loans to meet operating and reserve requirements, concerns about certification requirements on the part of board members, or owner occupancy percentages below 50 percent. These are among the areas which FHA is considering for changes as it develops new regulations under the authority provided in HERA.

In establishing its new requirements for condominiums, FHA has sought to achieve the appropriate balance between risk management and access to homeownership for qualified borrowers by engaging with a variety of stakeholders prior to publication of its revised policies. And, it has continued to discuss these new requirements with a large number of interested parties. As a result of these interactions, FHA is currently working on revisions to some of its condominium project approval requirements. FHA hopes to publish these changes very soon.

In addition, staff is currently working on crafting the proposed rules for FHA-approved condominiums, as required by HERA. These regulations will establish permanent requirements for the FHA condominium program and replace the interim guidance that has been provided via Mortgagee Letter. Pursuant to the customary rulemaking process, upon publication of the proposed regulations in the Federal Register, a notice and comment period will allow interested parties to comment on FHA's proposed regulations. Recommendations, concerns, and industry comments received from stakeholders and other interested parties regarding the development of the condominium regulations will provide important additional feedback to FHA and will be considered by FHA in establishing its final rules for the program. Therefore, FHA encourages interested parties to comment on its proposed regulations once they are published.

While there are limitations on HUD's ability to describe in detail the proposed regulations while they are – as they are at present – under development within the Department, I can say that a number of the concerns raised in your letter are among those that FHA is evaluating at present, and I anticipate that the forthcoming interim and permanent requirements for the condominium program will address these matters.

I hope this information is helpful. We would be pleased to discuss these matters in more detail with you or your staff if that would of interest to you.

Sincerely,



Peter A. Kovar  
Assistant Secretary for Congressional  
and Intergovernmental Relations