



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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November 1, 2010

The Honorable David H. Stevens
Assistant Secretary for Housing - Federal Housing Commissioner
US Department of Housing and Urban Development
Washington, DC 20410

Dear Commissioner Stevens:

I am writing on behalf of the 1.1 million members of the National Association of REALTORS® (NAR) to request enhancements to the condominium approval process. Existing temporary guidance should be, at a minimum, extended through the end of 2011. Additional enhancements to the existing rules may be necessary to ensure adequate liquidity in the condominium mortgage market.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

The temporary guidance in Mortgagee Letter 2009-46 A, Temporary Guidance for Condominium Policy, is effective through December 31, 2010. The requirements in this Mortgagee Letter should be enhanced and made permanent or at least extended through December 31, 2011.

Owner-Occupancy Requirement

NAR recommends that FHA eliminate the occupancy ratio for FHA mortgages for all condominium developments. FHA currently requires an owner-occupancy rate of 50 percent. While we applaud FHA for temporarily not including bank-owned REO properties for the purposes of calculating occupancy ratios, eliminating this requirement will allow more buyers to purchase units in condominium developments and help stabilize these developments and the community (vacant and REO may not be excluded in the owner-occupancy calculation on January 1, 2011). Fannie Mae and Freddie Mac, the government sponsored enterprises (GSEs), do not have an occupancy ratio requirement for condominium projects if the borrower is going to occupy the unit after purchase.

FHA Concentration Requirement

NAR recommends amending or temporarily suspending the FHA Concentration requirement. NAR applauds FHA for temporarily increasing the concentration requirement to no more than 50 percent of the total units in a project and, in certain circumstances, to 100 percent for some projects



at least one year old. This temporary increase will revert to 30 percent on January 1, 2011, for all condominium projects. FHA should consider expanding the concentration requirement to 100 percent for new construction projects as well. Condominiums are often the only option for first time home buyers or borrowers with good credit but small downpayments. Many of these buyers rely on FHA because downpayment requirements are significantly lower than for conventional mortgages. Increasing the concentration limit, or temporarily suspending it, will result in a greater number of owner-occupied units because more borrowers will be able to use FHA in more condominium projects.

Pre-Sale Requirement

NAR recommends reducing or eliminating the FHA pre-sale requirement. ML 2009-46 A requires that at least 30 percent of the total condominium units be sold prior to FHA's endorsement of any mortgage on a unit (the pre-sale requirement is scheduled to revert to 50 percent on January 1, 2011). Many condominium projects remain largely vacant because of the existing real estate crisis. This requirement minimizes consumer choice for borrowers interested in using FHA to purchase a condominium unit. Reducing or eliminating this requirement grants greater choice for the borrower but also helps reduce the number of vacant units in the market which, in turn, will promote price stability and reduce loss to the insurance fund.

FHA should also consider additional enhancements to Mortgage Letter 2009-46 B, *Condominium Approval Process for Single Family Housing*. NAR recommends enhancements to the guidance below that, along with recommendations to the temporary guidance mentioned above, could have a dramatically positive impact on condominium markets across the country.

Investor Ownership

FHA currently prohibits any one investor from owning more than 10 percent of units in a project, including developers or builders that subsequently rent vacant and unsold units. FHA should consider increasing the percent of units that may be owned by any one investor. Allowing an investor to own more than 10 percent of units in a project, particularly if the investor is the builder or developer, means that units are less likely to remain unoccupied. Vacant units often deter potential buyers from purchasing in a project whereas occupied units, even as investor-owned rental units, can be a sign of strength for a project. Increasing the investor ownership percentage to an appropriate level can stabilize a community without adding significantly more risk to FHA's insurance fund.

Delinquent Homeowners Association (HOA) Dues

FHA requires that no more than 15 percent of units in a project can be in arrears (defined as more than 30 days past due) of their condominium association fees. NAR recommends increasing this percentage. In today's market it is difficult to obtain financing for condominiums so many units remain vacant and are likely not paying dues to their association. Other units may be occupied but, due to economic circumstances beyond their control, occupants may be unable to pay their dues on time. FHA could also consider defining "delinquent" as more than 90 days past due. Broadening the definition for delinquency, even temporarily, allows more time for units, including vacant REO and short sales, to be sold to buyers who will reside there.

Amending the rules for condominium developments outlined in ML 2009-46 A and B will benefit all parties in the real estate transaction. Lenders will have the opportunity to move more REO

properties off their books because more units could be eligible for buyers with FHA mortgages. Individuals and families purchasing units in these developments with FHA loans will have access to more flexible and affordable financing opportunities. Potential buyers with FHA mortgages will have a wider choice of condominium developments. Existing owners in these developments benefit as vacant units are purchased and occupied and the owner-occupied ratio increases. The housing recovery remains fragile and foreclosure completions continue to move upward. Enhancements to FHA's condominium rules will ensure the recovery stays on track and protects the long-term value of homeownership in the U.S.

Thank you for your time and consideration of this matter. If you have any questions or concerns, or if we may be of service to you, please do not hesitate to contact us or our NAR's Senior Regulatory Policy Representative, Jerry Nagy, at 202.383.1233 or jnagy@realtors.org.

Sincerely,

A handwritten signature in black ink that reads "Vicki Cox Golder". The signature is written in a cursive, flowing style.

Vicki Cox Golder, CRB
2010 President
National Association of REALTORS®