



NATIONAL ASSOCIATION OF REALTORS®

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**Charles McMillan, CIPS, GRI**  
*President*

July 31, 2009

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 1.2 million members of the National Association of REALTORS® (NAR) to request enhancements to Mortgagee Letter 2009-19, *Condominium Approval Process – Single Family Housing*, that was announced on June 12, 2009. We have concerns that some components of the mortgagee letter may lengthen the real estate crisis at a time when some markets are seeing positive growth.

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®.

#### ***Owner-Occupancy Requirement***

NAR recommends that FHA eliminate the occupancy ratio for FHA mortgages for all condominium developments. While we applaud FHA for reducing the occupancy ratio to 50 percent, from 51 percent, eliminating this requirement will allow more buyers to purchase units in condominium and help stabilize these developments and the community. Fannie Mae and Freddie Mac, the government sponsored enterprises (GSEs), do not have an occupancy ratio for condominium projects if the borrower is going to occupy the unit after purchase.

NAR also recommends amending the FHA occupancy rules so bank-owned REO properties are no longer counted for the purpose of calculating occupancy ratios. Reducing the owner-occupancy ratio and not including bank-owned REO properties in the calculation will help condominium developments with significant percentages of REO properties. This change in policy will align with the policies of Fannie Mae and Freddie Mac. It will attract buyers seeking FHA mortgages to condominium developments with available units for purchase while creating a level of continuity across the industry.

#### ***FHA Concentration Requirement***

NAR also recommends amending the FHA Concentration requirement. As written in ML 2009-19, no more than 30 percent of the total units in a project may have a FHA mortgage. 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.

### ***Units Sold Requirement***

ML 2009-19 requires that at least 50 percent of the total condominium units be sold prior to FHA's endorsement of any mortgage on a unit. 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.

### ***Reserve Study***

NAR has concerns regarding FHA's requirement of a reserve study. The study may be an additional layer of bureaucracy that may not easily be completed and as a result delay or cancel the sales of condominiums. FHA should clarify the requirements of the reserve study by clearly stating what should be contained in the study. FHA may also wish to consider identifying the party responsible for conducting the study and bearing the financial burden to complete the study.

Amending the rules for condominium developments outlined in ML 2009-19 will benefit all parties in the real estate transaction. Lenders will have the opportunity to move 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. Finally, existing owners in these developments benefit as vacant units are purchased and occupied and the owner-occupied ratio increases.

Thank you for your time and consideration of this matter. If you have any questions or concerns, or if I may be of service to you, please do not hesitate to contact me or our Senior Regulatory Policy Representative, Jerry Nagy, at 202.383.1233 or [jnagy@realtors.org](mailto:jnagy@realtors.org).

Sincerely,



Charles McMillan, CIPS, GRI  
2009 President, National Association of REALTORS®