

**Congress of the United States**  
**Washington, DC 20515**

May 8, 2012

The Honorable Shaun Donovan  
Secretary, Housing and Urban Development  
Washington, DC 20410

Dear Secretary Donovan:

We are writing to express concerns with the Department's policies regarding FHA approval standards for condominiums. We believe that by modifying its existing condominium policies FHA can better serve this important sector of the housing market.

In order to purchase a condominium unit with FHA-insured mortgage financing, a buyer must meet FHA's borrower underwriting requirements and ensure the condominium association has been approved by FHA. Under current program rules, this two part underwriting process places significant burdens on prospective homebuyers, existing homeowners, and condominium associations alike. We strongly support the goals of ensuring the financial viability of these properties, and averting costs to American taxpayers; but we believe that some of these rules may not be justified by risk, and may eliminate options for qualified homebuyers, and further extend our nation's housing crisis.

Some of the specific rules to consider:

- **Delinquent assessments** – Condominium boards must certify that no more than 15% of units are 30 days or more delinquent in their payment of assessments. This requirement does not take into consideration the overall health of the association, which may have compensated for delinquencies by building reserves or taking other steps to ensure that delinquencies are not impacting their financial stability. Some state laws prohibit collection of delinquent assessments until a later threshold (60 or 90 days) and most association governing documents do not consider unit owners to be delinquent until 60 or 90 days. This combination of state law and traditional industry practice largely eliminates the ability for these condominiums to achieve FHA approval. Finally, FHA includes delinquencies associated with "Real Estate Owned" (REO) in the 15% of units calculation. Assessments for REO are rarely received by associations in a timely manner, which is a large obstacle to association compliance with FHA requirements.
- **Onerous certification requirements** - Applicants submitting for FHA approval must certify that the condominium association complies with all local and state laws. Even after due diligence, very few legal professionals, let alone volunteer board members, are willing to provide such certification. Furthermore, the certification contains a future reporting requirement. The penalty for false certification and failure to report (of up to 30 years in prison and a maximum of \$1 million) can be paralyzing to often volunteer-led boards.

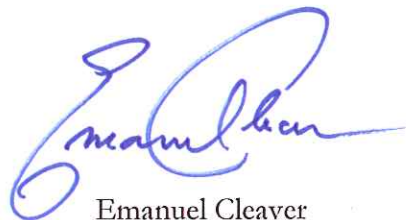
- **Owner-occupancy requirement** – FHA requires that a condominium be at least 50% owner occupied for any unit to be sold to a buyer using FHA-insured mortgage financing. The owner-occupancy limitation includes all REO used as rental property. This creates significant problems for owners wishing to sell their unit, particularly in today’s real estate climate. This has not been a requirement for the private sector when an owner is purchasing the unit as their primary residence. As all FHA purchasers are owner-occupants this requirement is likely duplicative and should be eliminated.
- **Commercial space** – FHA prohibits loans in any property that has more than 25% commercial space. This requirement is outdated and contrary to the popular “town center” model of planning that provides benefits to consumers and businesses by creating a synergy of services. It is also contrary to HUD’s policy agenda of promoting neighborhoods with a mix of residential housing, necessary services, and access to public transit.

Amending the rules for condominium approval, as suggested above, will benefit all parties in the transaction. Condominium associations will become more stable, homeowners will be able to sell their units, homebuyers will have more opportunities to purchase affordable properties, and lenders will be able to move more REO properties off their books. We urge you to revise these rules. We thank you for your consideration and look forward to your timely response.

Sincerely,



Mike Fitzpatrick  
Member of Congress



Emanuel Cleaver  
Member of Congress