



HOUSING FINANCE AND LAND DEVELOPMENT

DAVID L. LEDFORD

Senior Staff Vice President
Housing Finance and Land Development

February 25, 2009

The Honorable Brian D. Montgomery
Assistant Secretary for Housing and FHA Commissioner
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 9100
Washington, DC 20410

Dear Commissioner Montgomery:

The National Association of Home Builders (NAHB) would like to express its thanks for the recent issuing of Mortgagee Letter 2009-06, Temporary Authority for Multifamily Hubs to Process Waiver Requests Pertaining to the Three-Year Rule for Section 223(f). We believe that HUD has taken a very important step in helping to provide much-needed liquidity to the multifamily finance market. NAHB's multifamily members report that it has become increasingly difficult to find sources of mortgage credit for recently completed, self-sustaining multifamily properties due to the intensifying credit market crisis. FHA can and should play a major role in addressing this critical issue.

The Mortgagee Letter notes that FHA has taken steps in the past to temporarily modify the Section 223(f) requirements to meet program goals when economic conditions greatly decreased the availability of credit. For example, a special program was implemented for a period of 18 months (June 1974 through the end of 1975) to address liquidity shortages in the multifamily market that were preventing otherwise sound projects from obtaining permanent financing. The Mortgagee letter also notes that the existing capital market credit freeze is similarly constraining the availability of permanent financing today. Our members indicate that the current situation is actually much worse and will require special action extending for at least 18 months, if not more.

NAHB is disappointed that HUD has chosen to implement only a six-month program, even though the conditions currently are as dire – or more so – than the 1974-75 period. NAHB is also disappointed that HUD has decided to implement additional requirements imposing expanded obstacles to the use of Section 223(f) insurance that go beyond those normally required. While NAHB strongly supports the need to ensure the long-term viability of the

Section 223(f) program, we believe that some of the conditions set forth in the Mortgagee Letter could be modified without jeopardizing the program.

NAHB respectfully requests that HUD consider revising certain conditions set forth in the Mortgagee Letter, as provided below.

Mortgagee Letter Conditions	NAHB Comments and Recommendations
Properties must have a Certificate of Occupancy dated no later than July 31, 2008.	Properties with a CO as of February 6, 2009, (the date of the Mortgagee Letter) should be eligible.
The waiver authority expires in six months; HUD will evaluate its effectiveness based on applications received and then decide whether or not to extend the program.	This is a severe crisis with no end in sight, which justifies a longer program of 18 months, at a minimum. A six-month period, with a lapse while HUD evaluates the program's effectiveness, is not enough time. We also question the need for a waiver, as HUD can simply implement these changes and move to process the loans expeditiously.
Projects that previously applied for mortgage insurance under other HUD programs and withdrew their applications are ineligible.	This prohibition should be removed. There could be many reasons for an applicant withdrawing previously; this should not render a request for a waiver under 223(f) ineligible.
The applicant must submit evidence that all interest and/or debt service payments have been made on time since the beginning of the current loan.	This is not required under the Section 223(f) program and should not be applied to the waiver requests.
A minimum of one full year (non-annualized) audited financial statements are required.	The requirement should be the lesser of one year or the length of time the property has been in operation.
The property must have achieved Sustaining Occupancy for a period of three months immediately prior to the date that the application for Firm Commitment is submitted.	This requirement should be revised to achievement of Sustaining Occupancy for a period of three months immediately prior to the date that the commitment for Firm Commitment is issued .

Mortgagee Letter Conditions	NAHB Comments and Recommendations
The certified rent roll of occupancy for the most recent three-month period must be no less than 90 percent of the total units in the entire project, including all phases.	These loans could be for properties in lease-up. HUD should delay this requirement until full funding or closing. Applications will be delayed if this requirement must be met at the time of application, therefore not assisting the properties HUD is trying to assist. If this requirement remains, a project could be four to six months later before receiving a loan. HUD should do everything possible to shorten the time necessary to reach commitment and closing, not hinder the process.
Related to appraisals in #12 of the Mortgagee Letter, the reference to depreciation and the requirement to use a cost approach is different than under the regular Section 223(f) program.	Appraisal requirements should be the same for loans using the waiver as for loans under the regular Section 223(f) program. The language in #12 is confusing.
#14 in the Mortgagee Letter related to inspections and repairs, states that all existing MAP Guide requirements related to project inspection, repair escrows, and protection against latent defects are applicable to loans approved under the waiver program.	While this provision is reasonable, the additional requirements as set forth in this section are unnecessary.

NAHB would very much appreciate your consideration of these modifications to the Mortgagee Letter. We believe that the FHA Section 223(f) waiver program should be geared towards providing refinancing opportunities to as many loans as possible, which can be accomplished without adding requirements above and beyond those normally required for the Section 223(f) program. The problems project owners are encountering are not due to bad projects but rather to the severe liquidity crisis. Time is of the essence in order to prevent further foreclosures and disruptions in this valuable sector of our housing pipeline.

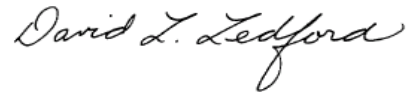
The Honorable Brian Montgomery

February 25, 2009

Page 4

Thank you for your consideration. If you have any questions about our recommendations, please feel free to call Claudia Kedda, Director, Multifamily Finance, at 202.266.8352. We would be happy to discuss this with you.

Sincerely,

A handwritten signature in cursive script that reads "David L. Ledford". The signature is written in black ink and is centered on the page.

David L. Ledford
Senior Staff Vice President
Housing Finance and Land Development