



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

November 6, 2009

MORTGAGEE LETTER 2009-46 A

TO: ALL APPROVED MORTGAGEES

SUBJECT: Temporary Guidance for Condominium Policy

In Mortgagee Letter 2009-46 B, the Federal Housing Administration (FHA) announced the permanent baseline guidance for condominium project eligibility. This Mortgagee Letter (ML) waives five provisions of that guidance and serves as a temporary directive to address current housing market conditions. This temporary guidance is effective for all FHA case numbers assigned on or after December 7, 2009 through December 31, 2010, except as noted for the “Spot Loan” Approval Process. FHA reserves the right to modify, suspend or terminate the guidance contained in this document if analysis of condominium mortgage performance indicates that the insurance fund is at risk.

I. “Spot Loan” Approval Process

Mortgagee Letter 2009-46B eliminated the Spot Loan Approval Process as defined in Mortgagee Letter 1996-41 for all FHA case number assignments effective on or after December 7, 2009. However, to address concerns involving the volatility in the condominium market, the new effective date for the elimination of this practice is for all FHA case number assignments on or after February 1, 2010. FHA may perform additional monitoring to ensure compliance with the “Spot Loan” Approval Process.

II. FHA Concentration Requirements

The FHA concentration requirement defined in ML 2009-46 B will be increased temporarily to 50 percent.

Exceptions to 50 percent Concentration Level. The FHA concentration may be increased up to 100 percent if the project meets all of the basic condominium standards plus the additional items stated below:

- The project is 100 percent complete and construction has been completed for at least one year, as evidenced by issuance of the final or temporary/conditional certificate of occupancy for last unit conveyed;

- 100 percent of the units have been sold and no entity owns more than 10 percent of the units in the project (for projects with fewer than 10 units, single entity may own no more than 1 unit);
- The project's budget provides for the funding of replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10% of the budget;
- Control of the Homeowners Association has transferred to the owners; *and*
- The owner-occupancy ratio is at least 50 percent.

Note: New construction and conversions are not eligible for this exception.

III. Owner-Occupancy Requirements

At least 50 percent of the units in a project must be owner-occupied or sold to owners who intend to occupy the units. For proposed, under construction, or projects still in their initial marketing period, FHA will allow a minimum owner occupancy amount equal to 50 percent of the number of presold units.

Vacant or tenant-occupied real estate owned (REOs), including properties that are bank owned, may be excluded from the calculation of the required owner-occupancy percentage (should be removed from both the numerator and denominator).

IV. Pre-Sale Requirements

In the case of new construction, the pre-sale requirement defined in ML 2009-46 B will be reduced temporarily to 30 percent. Per ML 2009-46 B, the pre-sale percentage must be documented as follows:

- Copies of sales agreements and evidence that a mortgagee is willing to make the loan;
- Evidence that units have closed and are occupied; **OR**
- Information from a developer/builder that lists all of the units already sold, under contract, or closed (e.g. a spreadsheet, chart, or listing used for the company's own tracking purposes) that is accompanied by a signed certification from the developer (Attachment F of ML 2009-46 B).

V. Florida Condominium Project Approval

All requests for approval of condominium projects located in Florida will require submission to the Atlanta Homeownership Center for review, under the HUD Review and Approval Process (HRAP). These projects are not eligible for approval using the Direct Endorsement Lender Review and Approval Process (DELRAP), defined in ML 2009-46 B.

If you have questions regarding this Mortgage Letter, please call the FHA's Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

David H. Stevens
Assistant Secretary for Housing-
Federal Housing Commissioner

