



March 16, 2010

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Mr. Vance Morris
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Dear Vicki and Vance:

Thank you for meeting with us last week concerning the upcoming changes to the property preservation requirements and implementation of the new Mortgagee Compliance Manager (MCM) contract. We greatly appreciate your willingness to meet with us and to address our concerns. We are grateful for your impressive quick response to our recommendations.

We wanted to take this opportunity to restate several discussion points from the meeting hoping this will help in your final drafting of the mortgagee letter and requirements. We also have identified a few additional questions or concerns worthy of immediate attention.

Definition of Conveyance Condition: We were very pleased to learn that FHA will not be changing its conveyance condition standard for vacant properties, with the exception of requiring the removal of interior debris. We support this standard. To ensure there is a clear understanding of this fact, FHA agreed to remove confusing language that is only applicable to “occupied” conveyances, not vacant conveyances. Thank you for agreeing to this change. We respectfully suggest that the MCM contract may also need to be clarified given that the Request for Questions (RFQ) defines conveyance condition using the same problematic “occupied” conveyance language. The RFQ states:

“Conveyance Condition – The standards a property has to meet to be considered ready for conveyance. This includes basic components for habitability and occupancy such as adequate heating and cooling facilities, electrical supply, cooking facilities, hot and cold water supply, sanitary facilities, and roof covering.” Request for Questions, Section 2.2: Definitions, Page A-9.

A clarification of conveyance condition should also assist in eliminating unnecessary reconveyances, which are costly to both HUD and the servicer (see below regarding hazard claims).

Line Item and Property Cap: MBA suggested removing large repairs from the \$2,500 total property cap, namely *items/services without a specific line item in the fee schedule*, because these items will “eat up” the cap and trigger unnecessary processing of approvals of future routine maintenance. FHA agreed. MBA members indicated that the following items represent the largest costs: dismantling meth. labs and flooded basements. Permanent roof repairs and pool securing were also mentioned as high cost services, however, we presumed these services would continue to be outside of the per property cap as they are today. Again, thank you for improving the proposed process.

Although not discussed in the meeting, we believe that HUD should consider allowing periodic services, such as grass cuts, to be pre-approved if within the published threshold, even if the overall property cap is exceeded. Again this will reduce the number of over allowable requests to FHA. Periodic services are those routine and reoccurring services that HUD approves in virtually all over allowable requests.

Claims and Recovery: MBA is extremely appreciative of FHA’s decision to permit servicers to continue seeking reimbursement for over allowable costs on the Part C claim, rather than require supplemental claims. Avoiding an increase in supplemental claims is a far more streamlined, consolidated process and will save the servicer and HUD significant time and money.

Transition: FHA staff stated that servicers would have to resubmit over allowable requests using P260 if such requests were not approved by one of the existing M&Ms five business days prior to April 7th. Our members have several concerns regarding this transition policy, including:

- The increased likelihood that M&Ms will stop processing over allowables earlier than March 31st, creating a huge case load for servicers to re-enter.
- The loss of five business days to submit over allowable requests.
- The amount of due diligence required (i.e., determining when an over allowable request was not answered) and the manual resubmission process associated with P260.
- The over allowable rules that will apply to resubmitted cases (e.g., the “ask for permission first” or “perform the work first” standard)?

Servicers request an automatic extension of 10 business days given the additional strain on staff and lost submission time. We also seek clarification as to which rules apply to resubmitted requests.

Audit: HUD clarified that the MCM will be performing audits to ensure servicer compliance with FHA guidelines on property preservation. To avoid duplicate reviews and penalties, we concluded that HUD will no longer review Part C as part of the Post Claim Review. We respectfully ask for such a clarification in the pending mortgagee letter.

Extensions: In the meeting, FHA staff stated that requests for extensions of time to convey will not be grant if filed later than the 25th day after obtaining marketable title. We respectfully ask that this requirement not apply to damage that occurs or is properly discovered between the 25th and 30th day of the conveyance timeline.

Although not discussed in the meeting, a PowerPoint document on the Yardi website includes a slide entitled, "Conveyance Extension Request – Sub State Diagram," which appears to impose a new standard. The slide provides that all extensions will be automatically denied if the request is submitted more than 30 days from the date of the foreclosure deed. We believe the language should refer to the current standard which is "*30 days from marketable title/vacancy rather than 30 days from the date on the foreclosure deed.*" Otherwise, all loans in two deed states or properties that require an eviction would now require an extension, which may be hard to produce. Prior to eviction, servicers will not know the exact extent of preservation work necessary to file the extension.

Inspection Report Form: MBA is pleased that FHA will not require the use of the "Property Inspection Report, HUD 9519-A," at this time. We understand that all information required on the form, however, still must be transmitted to FHA and that FHA plans to require the form in the future when systems are capable of populating the form.

Additional Critical Items: We did not have the opportunity to fully discuss several issues during our meeting and, therefore, request a follow up conference call soon to explore them in greater detail:

- **Hazard Claims:** Currently, servicers believe they are following the guidelines when conveying properties with non-mortgagee neglect damage. Unfortunately, a growing number of properties are being reconveyed due to hazard insurance claims not being filed. In most cases, these hazard claims are below the deductibles and, therefore, will not result in a claim payment. (Filing these cases, however, raises premiums without any commensurate payout). We respectfully request that FHA issue specific instructions relating to FHA's expectations for filing insurance claims. In addition, we ask that FHA make reasonable accommodations, beyond 30 days, for the time required to settle such hazard insurance claims and perform the repairs, especially when filed per FHA's direction to reduce HUD's losses.
- **Treatment Loss Mitigation/Bankruptcy:** Members would like clear guidance on appropriate property preservation actions when a property is occupied, in active loss mitigation, bankruptcy, or listed for sale. There is considerable variance in FHA's treatment today.
- **Occupied Conveyances.** We appreciate your stated willingness to research options for conveying occupied properties in light of the Protecting Tenants at Foreclosure Act. At the meeting we raised the concept of HUD accepting occupied conveyances, transferring the properties to FHA multifamily, which currently contracts with one of the

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largest servicers—National Church Registries (N.C.R)—to manage tenant occupied properties. We wish to explore this and other suggestions, including allowing servicers to be paid for performing property management services.

Again, thank you for allowing us to raise our concerns and for adopting our suggestions. We look forward to your offer of continued open communication and partnership on these issues. We will contact your offices soon to schedule a follow up call, but if you need to reach me, please contact me at (202) 557-2861 or via email at vvidal@mortgagebankers.org.

Sincerely,

Vicki Vidal

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Associate Vice President, Government Affairs

Cc: Nancy Sullivan
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