Waiver of Requirements of Mortgagee Letter 2011-22, Condominium Project Approval and Processing Guide, Insurance Requirements

Pursuant to § 7(q) of the Department of Housing and Urban Development Act (HUD Act) (42 U.S.C. 3535(q)), I hereby waive the master/blanket hazard, flood, liability and other insurance requirements described in Mortgagee Letter 2011-22. This waiver is limited to Manufactured Housing, Detached and Common Interest Condominium Projects unable to satisfy the current insurance requirements. To be eligible for the waiver, the project must meet one of the following conditions:

1. The project must be a Manufactured Housing Condominium Project (MHCP) where the ownership structure is subject to a condominium regime.
2. The project must be a Detached Condominium Housing Project (DCHP) where the ownership structure is subject to a condominium regime in which the individual detached single family dwelling, garage and onsite improvements are owned and maintained by the homeowner. These projects would otherwise qualify as a site condominium; however the ground beneath the residential improvements is owned by the Homeowners Association (HOA) or is under a long term leasehold interest and considered common area or limited common area.
3. The project must be a Common Interest Housing Development (CIHD), defined as a planned residential community that may consist of duplex units and/or contain multiple housing types, structured with different ownership interests, managed by a common HOA, and governed under one Declaration of Covenants, Conditions and Restrictions (CC&Rs).
4. The waiver is limited to one of the identified condominium project types that don't meet the insurance requirements in Mortgagee Letter 2011-22 that require the HOA maintain master/blanket hazard, flood, liability and any other insurance required by state or local condominium laws or the Federal Housing Administration (FHA).

In support of the waiver, I make the following Findings and Determinations.

FINDINGS

1. FHA's current insurance requirement that a HOA maintain master/blanket hazard and liability property insurance for the replacement cost of the entire project, including the structures is not practical when applied to a MHCP. The requirement can be cost prohibitive, and provides no substantial benefit. The risk to the FHA insurance fund associated with the property insurance coverage for an individual unit within these projects is no greater than a site condominium, a unit within a planned unit development, or a single family home. Furthermore, FHA approved lenders are required to: 1) verify the property used as collateral for an FHA insured mortgage has sufficient insurance coverage prior to closing a loan to be insured by FHA; 2) escrow property insurance premiums; and 3) provide a general certification as part of the firm commitment (form

HUD-92900A) that the loan meets all of HUD's property and borrower eligibility requirements.

2. MHCPs are typically structured and have the same physical characteristics as site condominiums. Projects that meet HUD's definition of a site condominium do not require FHA project approval; however, MHCPs may not be treated as site condominiums. Therefore, full project approval and compliance with all condominium requirements is required.
3. Condominium project CC&Rs defines the specific responsibilities of the unit owners and the HOA. Provisions contained within the CC&Rs of MHCPs typically require the individual unit owner to maintain and carry property insurance for the unit, site area and any personal property contained therein, while the HOA maintains and carries master/blanket hazard and liability insurance on the common areas. The condominium common areas typically will encompass amenities outside the footprint of the individual site, such as; entry gates, streets, lighting, pools or club houses.
4. HUD's database currently reflects at least 69 MHCPs approved representing an estimated 8,560 living units. These projects are primarily located on the East and West Coast due to the temperate weather conditions that make manufactured home communities desirable.
5. FHA recognizes there is a decreasing supply of affordable housing, and that condominium projects are a substantial contributor to the pool of affordable housing stock. Manufactured housing communities are growing in appeal to first time homebuyers and seniors due in part to these projects offering attractive amenities and on average, a lower cost associated with homeownership.
6. FHA's current insurance requirement that a HOA maintain master/blanket hazard and liability property insurance for the replacement cost of the entire project, may not be practical when applied to DCHPs. The risk to the FHA insurance fund associated with the property insurance coverage for DCHPs is no greater than a typical single family home within a subdivision or site condominium. Furthermore, FHA approved lenders are required to: 1) verify the property used as collateral for an FHA insured mortgage has sufficient insurance coverage prior to closing a loan to be insured by FHA; 2) escrow property insurance premiums; and 3) provide a general certification as part of the firm commitment (form HUD-92900A) that the loan meets all of HUD's property and borrower eligibility requirements.
7. The DCHP project CC&Rs defines the specific responsibilities of the unit owners and the HOA. Provisions contained within the CC&Rs of DCHPs typically require the owners of detached single family homes within the project to maintain and carry all applicable property insurance coverage for the dwelling, site area and any personal property contained therein. The HOA maintains and carries master/blanket hazard, flood, and liability insurance only for structures/improvements that are considered common areas of

the project. The common areas typically will encompass amenities outside the footprint of the individual site, such as; entry gates, streets, lighting, pools or club houses.

8. FHA recognizes there is a decreasing supply of affordable housing, and that condominium projects are a substantial contributor to the pool of affordable housing stock. With a diminishing supply of readily available land and rising construction costs, DCHPs have been developed to maximize land use, offer attractive amenities, are designed to appeal to a diverse group of purchasers, and typically include affordable housing opportunities for first time homeowners and seniors. DCHP housing projects offer the same property characteristics as single family subdivision properties, without the direct responsibilities associated with the cost and maintenance of comparable amenities offers in a single family subdivision.
9. FHA's current insurance requirement that the HOA maintain master/blanket hazard and liability property insurance for the replacement cost of the entire project, may not be practical when applied to CIHD detached single family component (single family dwellings and site condominiums). The risk to the FHA insurance fund associated with the property insurance coverage for the detached single family component within these projects is no greater than a typical subdivision of single family homes or site condominiums. Furthermore, FHA approved lenders are required to: 1) verify the property used as collateral for an FHA insured mortgage has sufficient insurance coverage prior to closing a loan to be insured by FHA; 2) escrow property insurance premiums; and 3) provide a general certification as part of the firm commitment (form HUD-92900A) that the loan meets all of HUD's property and borrower eligibility requirements.
10. CIHD projects are typically developed as planned residential communities due to a growing scarcity of land for suburban development. These projects allow for increased density, create a neighborhood with a certain architectural character, offer an affordable housing component and provide a variety of housing choices. The different housing types are typically built in clusters around green or open areas that are maintained by the association to create a diverse development. The CIHDs may include, attached and detached condominiums, planned unit developments and single family homes all of which share a variety of common amenities and services.
11. The CIHD project CC&Rs defines the specific responsibilities of the unit owners and the HOA. Provisions contained within the CC&Rs of CIHD's typically address separate cost centers attributable to the different housing types for allocation of common area expenses. The owners of the detached single family homes, site condominiums, or duplex units within the project may be required to maintain and carry property insurance for the dwelling, site area and any personal property contained therein. The HOA maintains and carries master/blanket hazard, flood, and liability insurance for the structures that contain the attached units and the common areas of the project. The

common areas typically will encompass amenities outside the footprint of the individual site; such as, entry gates, streets, lighting, green belts, pools or club houses.

12. Provisions contained within the CC&Rs of the CIHDs typically address separate cost centers attributable to the different housing types for allocation of common area expenses. The owners of the detached single family homes or site condominiums within the project are required to maintain and carry property insurance for the dwelling, site area and any personal property contained therein. The HOA maintains and carries master/blanket hazard, flood and liability insurance for the structures that contain the attached units and the common areas of the project. The common areas typically will encompass amenities outside of the footprint of the individual site; such as, entry gates, streets, lighting, green belts, pools or club houses.
13. FHA recognizes there is a decreasing supply of affordable housing, and that condominium projects are a substantial contributor to the pool of affordable housing stock. The diminishing supply in part is attributed to a decline of readily available land and rising construction costs. As such, CIHD housing projects are growing in appeal with the development of new residential communities that maximize land use, create sustainable housing communities, offer attractive amenities, utilize energy efficient technology, are located near transportation corridors, and provide a variety of housing choices to a diverse group of purchasers including affordable housing opportunities for first time homeowners and seniors.
14. A waiver is necessary to allow for the individual units owners to obtain and maintain individual hazard, flood, liability and other insurances required by state or local condominium laws or FHA requirements so that affordable housing opportunities are available to FHA qualified buyers.
15. Without the waiver, MCHPs, DCHPs, and CIHDs condominium projects are ineligible for initial FHA approval or recertification and the ineligibility substantially reduces the available affordable housing stock.
16. The risk to the Mutual Mortgage Insurance fund associated with the property insurance coverage in financing an individual unit within these projects is not greater than a unit within a subdivision, planned unit development or single family home.

<u>DETERMINATIONS</u>

1. To assist in ensuring the continued availability of affordable housing, a waiver of the current condominium unit insurance requirements that allow the individual unit owner to obtain and maintain their own insurance coverage must be granted.
2. The granting of the waiver is consistent with the Department's objectives to expand access to mortgage credit, while providing appropriate safeguards to waive the insurance requirements defined in Section 2.1.9, Insurance Requirements, of the Condominium Project Approval and Processing Guide.

3. All other guidance concerning condominium project approval in Mortgagee Letter 2011-22 and attachments remains unchanged except for the temporary policy provisions issued in Mortgagee Letter 2012-18 that have been extended until August 31, 2016, by issuance of Mortgagee Letter 2014-17 and issuance of additional temporary provisions in Mortgagee Letter 2015-27.
4. The above findings constitute good cause for the granting the waiver.
5. The waiver does not violate any statutory requirements.
6. This waiver shall be in effect for one year from the date below.

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Washington DC

Edward L. Golding
Principal Deputy Assistant Secretary for Housing