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November 28, 2016

Mr. Edward Golding
Principal Deputy Assistant Secretary for Housing
Department of Housing and Urban Development
Washington, DC 20410-0500

RE: [Docket No. FR–5715–P–01] RIN 2502–AJ30 Project Approval for Single-Family Condominiums

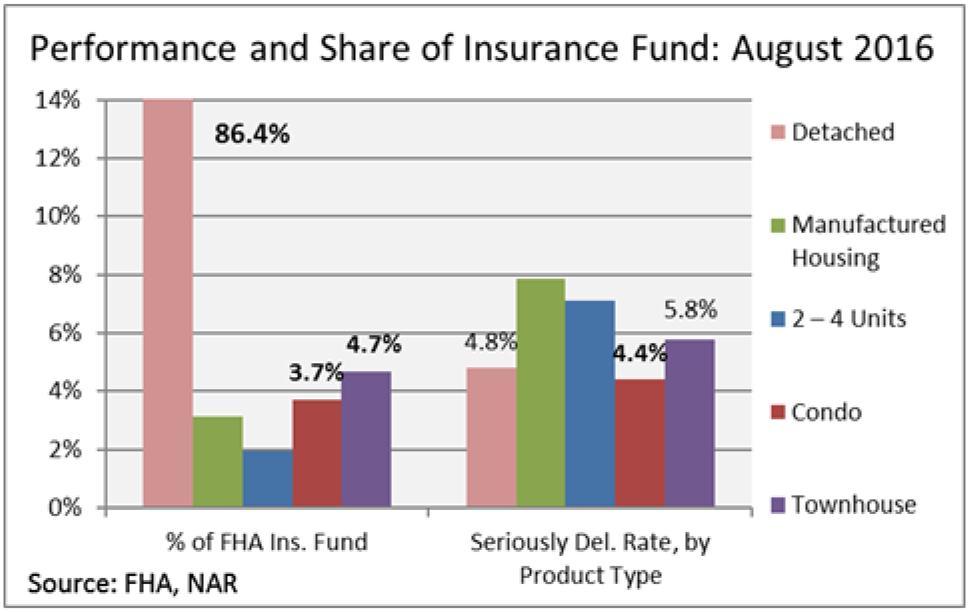
Dear Mr. Golding:

On behalf of the over 1.1 million members of the National Association of REALTORS® (NAR), I thank you for recognizing NAR's concerns with the Federal Housing Administration's (FHA) treatment of condominium projects and for providing this opportunity to comment on proposed changes to FHA rules on single-family condominium project approval. Condominiums are often the most affordable homeownership option for first time buyers, small families, single people, urban residents, and older Americans. Unfortunately, current FHA regulations prevent buyers from purchasing condominiums, harm homeowners who need to sell their condominiums, and limit the ability of condominium projects to attract resident buyers.

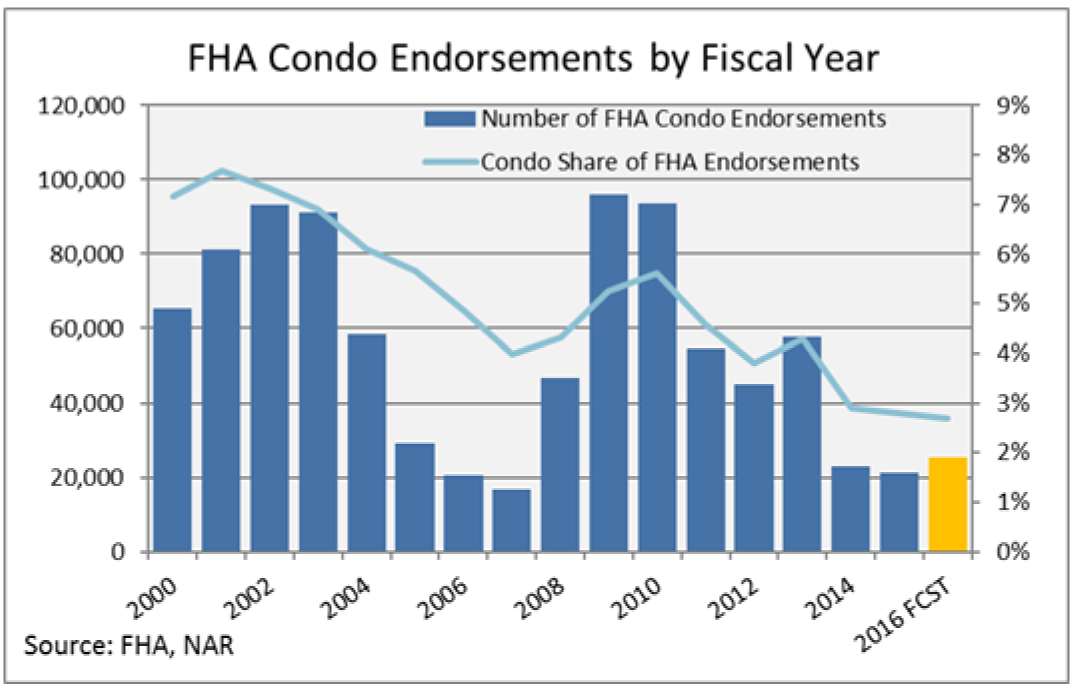
The National Association of REALTORS® is America's largest trade association, representing over 1.1 million members, including NAR's institutes, societies, and councils, involved in all aspects of the residential and commercial real estate industries. Membership is composed of residential and commercial REALTORS® who are brokers, salespeople, property managers, appraisers, counselors, and others engaged in the real estate industry. Members belong to one or more of approximately 1,200 local associations/boards and 54 state and territory associations of REALTORS®.

Condominium mortgages are the strongest performing loans in FHA's portfolio. The seriously delinquent rate for all FHA loans was 4.95 percent as of August, 2016 whereas condominiums had a 4.39 percent rate. This is the lowest seriously delinquent rate in the FHA portfolio.

EQUAL HOUSING OPPORTUNITY



Despite being the strongest performing loans in FHA's portfolio, FHA has significantly reduced the number of condominium loans insured in recent years. FHA endorsed 81,336 condo mortgages in 2001, but only 21,095 in 2015 and an estimated 25,000 to 26,000 in 2016.



Much of this is due to FHA's 2009 tightening of the rules concerning condominium project approval due to the belief that condominiums are riskier than single family structures; however, the current data shows this simply isn't true. NAR urges FHA to ease the restrictions on condominium project approval regarding the following:

Owner-Occupancy

FHA's current owner-occupancy requirement, as articulated under recent Mortgagee Letter 2016-15, was a step in the right direction. However, the restrictions placed on approval for condominium projects with below 50 percent owner-occupancy levels are onerous and too restrictive. According to a recent Community Associations Institute study, FHA's current requirement on reserves for projects with greater than 50 percent owner-occupancy was one of the leading reasons condominium projects were unable to obtain FHA certification.[1] In asking for a higher reserve requirement for projects with

[1] Community Associations Institute, "Survey: Federal Housing Administration (FHA) Condominium Project Approval," November 2016.

less than 50 percent owner-occupancy levels, FHA effectively prevents many financially sound developments from becoming certified. This requirement actually hurts the potential viability of condominium properties. If a building cannot be certified by FHA, it is more difficult for sellers of condominium units to find eligible borrowers. Often the seller's only alternative it to turn the unit into a rental, thus further lowering the owner-occupancy ratio.

NAR disagrees with HUD's assertion that the 50 percent owner-occupancy level has worked in the recent market. FHA has provided no measurable rationale for this requirement. In fact, both Freddie Mac and Fannie Mae have no such requirement when the property is being purchased as a primary residence. All FHA borrowers are purchasing a primary residence; their purchase will only help to boost the association's owner occupancy ratio. In this instance, an owner/occupancy requirement is counterproductive when a property meets all other certification requirements related to financial safety and soundness.

NAR strongly recommends FHA remove the current owner-occupancy requirement and align with Fannie Mae and Freddie Mac policy by allowing lenders to review a condominium project in its entirety. Owner-occupancy levels, whether 100 percent or 0 percent, should be evaluated in conjunction with the project's reserves, delinquency rates, et., to determine a condominium project's viability. At a minimum, NAR urges FHA to decrease allowable owner-occupancy limits from 50 percent to 35 percent without need for additional documentation as directed by Congress under the Housing Opportunities Through Modernization Act (HOTMA).

FHA Concentration

NAR recommends expanding the concentration of FHA-insured mortgages within a condo project to 100 percent, especially for new construction. In most metropolitan areas the cost of condominium is significantly less than a traditional single-family home. FHA is often the only financing available for many buyers, especially first-time or middle-income homebuyers who have limited resources for a down-payment. According to NAR research, the time needed to save for an FHA related down payment is significantly higher for a single-family home compared to a condominium. Purchasing a condominium will allow many FHA borrowers faster access to homeownership, helping to build their wealth and stabilize their living situation sooner rather than later.

A high concentration of FHA borrowers means a high concentration of owner-occupants, which helps the financial soundness of the condominium project. FHA does not limit the amount financing available within a neighborhood of single-family structures, nor should FHA limit financing within a condominium project. Generally, FHA condominium buyers have a stronger financial footing than non-condominium buyers. FHA condominium buyers tend to have higher FICO scores than the non-condominium buyers and higher monthly incomes. In 2016, the average monthly income for a condominium buyer was $1,693, versus $1,397 for non-condominium buyers.[2] These are credit worthy borrowers who deserve to live in buildings and communities that meet their needs.

Commercial Space

Mixed-use neighborhoods, those with a variety of housing, retail and public transportation options are increasingly the preferred choice for today's homebuyers. In fact, 56 percent of millennials and 46 percent of baby boomers prefer to live in areas with a mix of retail and housing options. [3] Mixed-use neighborhoods have held up their value better in the years following the Great Recession compared to solely residential neighborhoods. Given FHA's mission to promote safe and affordable housing, the current policy limiting commercial space hinders efforts to build neighborhoods that have a mix of residential housing and businesses with access to public transit that HUD has championed. NAR recommends FHA allow up to 45 percent commercial space without documentation. Greater levels of commercial space should be evaluated holistically along with the strength of the project, but should not be capped at a specific percentage.

Furthermore, HOTMA required HUD to allow lenders to approve commercial space waivers and to consider "factors relating to the economy of the locality in which the subject project is located." The law required HUD to implement this provision no later than October 28th,2016 but that deadline was not met. NAR urges HUD to immediately implement this provision of the law.

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[2] Urban Institute, "Loosening FHA Restrictions on Condominium Financing Makes Sense," November 2016.
[3] Regional Plan Associations, "The Unintended Consequences of Housing Finance," February 2016.

Single-Unit Approval

NAR fully supports the proposed return of single-unit approval for non-FHA certified condominium projects. This will help buyers interested in older condo projects that do not have FHA project approval, which will be a great benefit to many markets across the country. It will also help buyers interested in newer buildings that have not yet undertaken the process of becoming FHA certified, which will help FHA buyers in rapidly developing areas. Further, NAR urges FHA to allow spot approval in non-certified projects that do not meet current FHA condominium project requirements. For example, in condominium projects with lower owner-occupancy rates than required for FHA certification, single-unit approvals would provide a way for a building that wishes to gain FHA certification to bring in financially responsible owner-occupants, helping to build up the necessary FHA owner-occupancy requirements.

Recertification

NAR is pleased to see FHA is proposing less burdensome condo project recertification requirements. Allowing for updates to a project's current FHA application information rather than a complete re-submission of the application will help reduce the complicated paperwork collection requirements and consultant and attorney fees associated with a full FHA application. A condominium association is governed by its residents, which means members of the board of directors are volunteer homeowners. When the approval and recertification process is viewed as burdensome, expensive and complicated, these volunteer community leaders must make the choice of how resources and their time are best spent. While many condominium association boards believe it is important to have FHA approval, many fail to submit a certification application due to the onerous compliance burdens.[4]

NAR agrees that the current two-year approval period creates a large burden on the condominium associations, with projects facing the process of recertification at least six months prior to approval expiration. The current FHA "Condominium Project Approval and Processing Guide" is nearly 100 pages. This is overwhelming, especially for smaller properties with volunteer boards. Even for properties with professional management, the process is daunting. The average cost of obtaining the appropriate documents and legal opinions related to the certification process can range between $1,500 and $3,000. However, NAR feels that a five-year approval period, rather than the proposed three, would be ideal for reducing the burden to the condominium associations and entice many more buildings to apply for FHA approval, while still maintaining safety and soundness concerns.

Private Transfer Fees

Many potential FHA condominium projects have been unable to be certified based solely on the prohibition against any transfer fee. NAR agrees that private transfer fees that simply provide income to the developer or another entity are problematic. However, there are many private transfer fees that support the condominium facilities or provide tangible benefits to the homeowner. Acceptance of these "good" transfer fees, but rejection of the "bad" transfer fees is the standard employed by the Federal Housing Finance Agency. HOTMA requires HUD to adopt the "existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants." This will allow properties with private transfer fees that benefit the homeowner to be insured by FHA. In its Annual Report to Congress on November 15, 2016, HUD states this provision was "immediately effective."[5] NAR agrees the provision is effective immediately, and will work to ensure properties with such restrictions begin to apply for FHA certification.

Condominiums are the housing of choice for a growing segment of the population. With rising interest in walkable, vibrant, mixed residential and commercial neighborhoods, it is key that borrowers who rely on FHA financing are not unfairly prevented from purchasing a condominium in those communities. FHA recently released their 2016 Actuarial Report and Annual Report to Congress, which shows continued growth and stability in FHA's finances. Given FHA's current soundness and financial strength, the onerous and unnecessary restrictions on condominium project certification should be reduced. This will allow many worthy borrowers to own their home and further support FHA's mission to make homeownership accessible to millions of Americans.

[4] Community Associations Institute, "Survey: Federal Housing Administration (FHA) Condominium Project Approval," November 2016.

[5] Federal Housing Administration, Annual Report to Congress: The Financial Status of the FHA Mutual Mortgage Insurance Fund, Fiscal Year 2016, November 15, 2016, page 35.

Thank you again for your time and consideration of these comments. If I may be of any assistance to you, please do not hesitate to contact me or our Regulatory Policy Representative, Sehar Siddiqi, at (202) 383-1176 or SSiddiqi@REALTORS.org

Sincerely,

William E. Brown
2017 President, National Association of REALTORS®