

MORTGAGEE LETTER 2009-46A & 2009-46B

FREQUENTLY ASKED QUESTIONS

1. Are all lenders able to process Condominium Project Approval Request?

Only lenders who have unconditional Direct Endorsement authority and staff with knowledge and expertise in reviewing and approving projects are authorized to process condominium projects using DELRAP.

2. Can a lender choose to process condo projects both through DELRAP “and” HRAP processes?

Lenders who are eligible and process condominium approvals under DELRAP may exercise the option, at their discretion, to submit a condominium project for approval under the HRAP.

3. Lender “A” processes a condominium project approval request and lender “B” closes a loan in that project. What is lender “B”’s responsibility and would they be held accountable if the project was not processed in accordance with FHA requirements?

Mortgagees who rely upon a condominium project approval issued by another mortgagee are responsible for the loan level certification as outlined in ML 2009-46-B (Liabilities and Monitoring) (I).

4. When submitting projects for review during the test case phase is it necessary for a lender to submit 5 test cases to each HOC or will the approval be granted on a national basis?

This is not a “test” case process but rather a post review of condominium projects that have been approved by the DELRAP Lender. The projects can be submitted to one or more HOC’s to meet the 5 post review requirement.

5. From a Loan Correspondent’s position how is an acceptable level of expertise/knowledge determined? Does approving projects on a spot loan basis be considered acceptable to meet expertise/knowledge requirement?

Loan Correspondent’s cannot process, review or approve condominium projects.

6. How will the 30% concentration requirement affect first time homebuyers?

With the publication of Mortgagee Letter 2009-46 A, the FHA concentration will be increased temporarily to 50 percent. Mortgagee Letters 2009- 46 A and 2009-46 B applies to all projects, existing, proposed and new construction without distinction of homebuyers.

7. Can a lender close a loan prior to completing the 5 condo test case and receiving HUD’s approval?

Yes, this is not a test case process but a post review of projects that have been approved.

8. For small lenders that do not have a condo approval department can their investor’s process the project using the DELRAP or HRAP process?

The lender would have several options;

- The project can be submitted directly to the HOC for the project to processed using HRAP or
- The investor can process the project providing they meet all the FHA requirements.

9. When the 2 year recertification is required, can any lender re-certify that a project meets all FHA requirements without the submission of 5 test cases if that project had been previously approved by another DE Lender?

This is not a test case process but rather a post review of projects that have been approved by an authorized DELRAP Lender. Only lenders with DELRAP authority can re-certify a previously approved project.

10. If a lender uses the DELRAP process and the project is placed on the FHA approved list does that lender have approval proprietary?

No, any lender can process a loan in a condo project that is listed as a FHA approved project.

11. What checks and balances are in place which prevents more than one Lender and HUD from all reviewing the same condo project simultaneously (for different borrowers) and arriving at different decisions?

When processing a condo project DELRAP or HRAP the processor should;

- Check FHA Connection to determine if the project is listed and
- Contact the Developer and ask if the project has been submitted for FHA project approval.

12. Can lenders recertify to a project if the original approval was completed by another lender or by the HOC and will additional documentation be required from the re-certifying lender?

Any DE Lender with DELRAP authority can recertify that a project continues to meet FHA requirements. Further participation in the program will require that the project is still in compliance with FHA requirements including but not limited to;

- Owner-occupancy
- FHA Concentration

13. If using the HRAP process, once a Loan Officer, Broker or Project Consultant has gathered all the required exhibits' are they required to send the package to the Lender for the Lender to submit to the appropriate HOC?

The lender or their authorized representative can submit the project to the appropriate HOC.

14. If a Lender elects the HRAP approval process and discovers that the project would result in a non-approval decision would the package be forwarded to the HOC anyway?

If the Lender is authorized to process condominium projects using DELRAP the lender would update the condominium maintenance screen to reflect the rejection and reason for the decision. If the Lender is not authorized to process project approval request using the DELRAP option the project would be forwarded to the applicable Homeownership Center for review.

15. If a lender's process is currently delegated to do spot loan reviews does that mean they are automatically delegated/approved to do DELRAP?

No

16. Who is considered companies “authorized representative”?

An individual designated by the company as authorized to financially bind the company.

17. Does the “authorized representative” need to be DE certified if they are only approving the project?

Not necessarily, however;

- They should have the skill set and experience in project approval **and**
- FHA Connection must be updated to reflect the individual has condo approval authority.

18. Can a lender’s subsidiary companies process their project approvals?

Yes, if the subsidiary company has DELRAP approval authority.

19. How will Lenders who utilize the DELRAP option enter the information on the FHAC once a review has been completed?

Separate guidance that addresses inputting information into FHA Connection will be issued in the near future.

20. If a project is rejected via the DELRAP process by Lender A and Lender B questions the validity of that result can Lender B appeal the decision?

- If a project has been rejected or withdrawn ≤ 12 months: new/additional information may be submitted to HUD for reconsideration under HRAP processing based on the rejection or withdrawal date;
- If a project was rejected or withdrawn > 12 months: new/additional information may be submitted to HUD for processing under HRAP or to an eligible DELRAP mortgagee for processing under DELRAP requirements based on the rejection or withdrawal date.

21. What is the procedure to become a participating DELRAP Lender?

To process condominium projects using DELRAP lenders must;

- Have unconditional Direct Endorsement authority and
- The first five project approvals must be submitted to the applicable HOC for a post-review and be determined acceptable.

PROJECT/DOCUMENTATION REQUIREMENTS

1. At what point in time will it be required that the Homeowner Association be turned over to the homeowners?

Transfer of control of the Homeowners Association shall pass to the owners of units within the project no later than the latest of the following;

- 120 days after the date by which 75 percent of the units have been conveyed to the unit purchasers;
- Three years after completion of the project evidence by the first conveyance to a unit purchaser; or
- The time frame established under state or local condominium laws if specific provisions regarding transfer of control exist.

2. How is the concentration % determined, is it based on the entire project or individual phases?

For purposes of calculating FHA concentration percentages:

- On multi-phased projects the concentration percentage is calculated on the first declared phase and cumulatively on subsequent phases if the ownership of the condominium project remains the same;
 - If multi-phasing includes separate ownership per phase, each phase is calculated individually; or
 - Single-phase condominium project approval requests must meet the concentration percentage requirement or
- a. Projects consisting of three or less units will have no more than one unit encumbered with FHA Insurance.
 - b. Projects consisting of four or more units will have no more than 30 percent of the total units encumbered with FHA Insurance.

3. Can the Right of First Refusal be eliminated before December 7, 2009?

No

4. When processing a condo approval request under the DELRAP how does the processing lender obtain information regarding presales (i.e. executed sales contracts)?

It is industry practice to obtain pre-sale data from the builder/developer if not properly disclosed on the appraisal. Documentation would include;

- Copies of sales agreements and evidence that a mortgagee has issued approval or
- Evidence that units have closed and are occupied.

In lieu of providing this documentation the developer/builder will provide a list documenting all units sold, under contract or closed (i.e., an excel spreadsheet) signed and dated certification attached to this list. (ML 2009-46 B, Attachment F).

5. What will happen if a project that has been recently approved and the concentration is greater than 30%? Will those projects be withdrawn?

The FHA concentration requirement defined in ML 2009-46 B will be increased temporarily to 50 percent. The FHA concentration may be further increased up to 100 percent if the project meets all basic condominium standards plus the additional items as stated in ML 2009-46 A.

6. How can a lender obtain the information relative to FHA 30% concentration within a project?

FHA will display the concentration information for each approved condominium development on the approved condominium listing, which can be found on both FHA Connection the Condominium Project Maintenance Screen and on the public website www.hud.gov.

7. What will be the minimum amount of liability coverage required for a project, for example \$1,000,000 for a building of 30 units or more?

The Homeowners Association is required to maintain comprehensive general liability insurance covering all of the common elements, commercial space owned and leased by the owner's association, and public ways of the condominium project.

8. Under the Project Eligibility Review Service (PERS) system of condo approval a new construction condo project in its marketing stage would be eligible for approval subject to the terms and conditions of the PERS approval process, is the same true under the DELRAP?

PERS is the Fannie Mae (FNMA) condo project approval process and not acceptable for FHA processing.

9. Will PERS be terminated in December with the transition into DELRAP?

PERS is FNMA condo project approval process therefore is not affected by the December 7, 2009 implementation date.

10. If an approval under PERS is obtained prior to December 7, 2009 will it carry over to DELRAP?

PERS is applicable to FNMA only.

11. The Mortgagee Letter states that projects will need to be recertified every 2 years. If a project approval has expired or will expire in the near future does the case numbers have to be issued by the time of expiration, the loan approval or actually closed?

FHA will move all currently approved condominium projects to the new Project Approval Condominium List in the FHA Connection database. Recertification of these projects is required based on;

- Projects that received approval prior to October 1, 2008, will require recertification by December 7, 2010.
- Projects that received approval between October 1, 2008 and December 7, 2009, will follow the recertification requirements defined in the Project Approval Section, XIII.

12. What constitutes a violation when considering a "Right of First Refusal"?

A Right of First Refusal that is contained in the Condominium Legal Documents may not discriminate as set forth in the Fair Housing Regulations.

Reference; 24 CFR 100, Subpart B, Sec. 100.50, Real estate practices prohibited.
(<http://www.gpoaccessgov/cfr/index.html>)

Further guidance can be obtained by accessing HUD's website at www.hud.gov/offices/Fheo/index.cfm.

13. Will condo projects that were approved between 10/01/2008 and 12/7/2009 remain on the approval list?

Yes, all projects approved between 10/01/2008 and 12/7/2009 will remain on the approval list however re-certification will be required based on the project approval date.

14. Will Mortgagee Letter 2009-46 A and 2009-46 B apply to Reverse Mortgages

Both mortgagee letters will apply to all condominium property types insured by FHA.

15. How is the 30% (50% temporary increase) FHA concentration determined in an existing project on resales?

There is no difference between existing and new construction for determining the 30% (50% temporary) FHA concentration.

16. Does the lender have to sign off on Attachment C (Lender Certification for Individual Unit Financing) of ML 2009-46 B on every approved condo project starting with case number assignments on or after December 7, 2009?

Yes, this must be included in the case binder for each loan.

17. If a project is on HUD's approved condo list what documentation or checklist would a lender use before signing the certification?

FHA will not provide a checklist. Lenders must certify that they are not aware of any change in circumstances since initial approval of the project that would result in the project no longer complying with FHA requirements, i.e. FHA concentration and owner-occupancy requirements.

18. If a project is submitted to the HOC (HRAP) will an Attorney's Certification be required?

FHA will not require an attorney's certification. Lenders and/or developers/builders may obtain this as part of their due diligence process.

19. Can an Attorney's Certification be used in place of Attachment B, Attachment C or other certifications that may be required from the lender?

No, an Attorney's Certification can not replace any of the required applicable Appendices B, C, E and F of ML 2009-46 B.

20. If a project was FHA approved within the 10/08 to 12/09 timetable under the existing guidelines is the project exempt from the 30%(50% temporary increase) concentration requirement?

On December 7, 2009 all projects must meet FHA guidelines however ML 2009-46 A addresses the Temporary Guidance for Condominium Policy.

21. Can a Spot Loan be processed in a project that is not approved or was that eliminated with the publication of ML 2009-46 B?

To address concerns involving the volatility in the condominium market, the new effective date for the elimination of the spot loan process is for all FHA case number assignments on or after February 1, 2010.

22. Who submits the documents to the HOC for projects being processed under HRAP?

If a Condo Project Approval request is processed using HRAP the Lender, Developer, or their authorized representative can submit the request to the appropriate HOC.

23. Who is qualified to do a reserve study?

FHA does not provide the names of companies that can perform this service. It is the lender's responsibility to determine who has the expertise and capability to provide the necessary data.

24. Two and four unit condominium projects typically do not have a Homeowners Association. Would FHA accept a legal arbitration agreement executed by all unit owners?

No, this would not be acceptable.

25. If a transaction consists of a HUD REO, and the buyer has been issued a case number however the condo project is not on the approved list can a lender still process the loan and expect to obtain FHA Insurance.

Project Approval is not required for:

- FHA/HUD Real Estate Owned (REO) or
- FHA-to-FHA streamline refinance transactions.

26. When the new system goes into effect will there *be* a list maintained for projects that are either denied or withdrawn?

This information will be captured in FHA Connection on the Condominium Project Approval Maintenance Screen in the project status section.

27. If form 1004 (Single Family Appraisal) can be used in completing site condo appraisals is it necessary to include the condo rider in the case binder?

Yes, the Condominium Rider, Attachment D of ML 2009-46 B is required and must be included in the FHA case binder submitted for insurance endorsement.

28. What is the Owner Occupancy Requirement?

At least 50 percent of the units of a project must be owner-occupied or sold to owners who intend to occupy the units.

29. Will FHA allow a HECM loan in a 2 unit condo?

Yes

30. At the present time both VA and FNMA accept FHA Approved Condo Projects will the new policy have an effect on their acceptance of FHA projects?

VA and FNMA will determine if FHA's new process and policies will continue to be accepted for their loan programs.

31. Will FHA have a reciprocity agreement with VA and FNMA?

No.

32. Can a project be submitted with the Right of First Refusal prior to the implementation of the new ML?

No

33. What evidence is needed from a lender that is willing to make a loan to a buyer if the loan is through a different lender?

Examples of acceptable documentation would be a copy of a loan commitment or a letter from the buyer's lender.

34. Is the 30 % (50% temporary increase) concentration requirement applicable to all condos or just "spot" condos?

The requirement of FHA 30 % (50% temporary increase) concentration within a project goes into effect for all FHA projects effective December 7, 2009. The Spot Loan Approval Process will be eliminated beginning February 1, 2010.

35. How will FHA Concentration be monitored?

FHA is currently updating and enhancing FHA Connection to provide reports relative to this data.

36. How will one lender know if another lender has FHA loans within a specific project?

To obtain the FHA concentration percentage within a project the lender will access the Condominium Project Maintenance Screen; the percentage of FHA loans will be able to be viewed on this screen.

37. In the Reserve Study, what is considered adequate funds? 10%, 5%?

A reserve study is not automatically required. The Mortgagee must first review the homeowners' association budget to determine that the budget is adequate as stated in ML-2009-46 B. This includes providing for funding of at least 10% of the budget for replacement reserves for capital expenditures and deferred maintenance. If it has been determined that the budget is not adequate the mortgagee may request a reserve study to assess the financial stability of the project.

38. Why is a temporary C.O. not acceptable? Does this mean that even though the municipality is stating that a unit can be occupied, FHA will not allow the loan to close until the project is 100% complete?

Temporary certificates may be allowed under the circumstances as set forth in ML 2009-46 B, Section IX(C).

39. Can DELRAP be used for recertification?

Yes

40. Should a lender review the HOA's budget at time of recertification?

Further participation in the program after the two-year period has expired from the time of approval will require recertification to determine that the project is still in compliance with HUD- requirements and that no conditions currently exist which would present an unacceptable risk to FHA. Mortgagee Letter 2009-46 B, Section XII.

41. After the initial approval and the project is due for recertification does a full review need to be redone or a simplified certification?

Re-certification of a project will require the DELRAP Lender to certify that the project is still in compliance with HUD's owner-occupancy requirement, FHA concentration and that no conditions exist which would present an unacceptable risk to FHA.

42. There are HOA's that do not have a Reserve Study completed or they may have them completed every 24 months and in some cases will not release them. What is the guidance in these situations?

In lieu of the actual budget documents, mortgagees may request and rely on a properly executed Fannie Mae for 1073a, Analysis of Annual Income and Expenses-Operating Budget. The document may be executed by the sell/servicer, owners association, or management agent.

43. If a condo project was FHA approved between 10/01/08 and 10/01/09 under a MAR would those case numbers be grandfathered when considering the 30%(50% temporary increase) concentration?

No

44. Can a case number be assigned prior to a project receiving FHA approval?

No

45. Are Reserve Studies required for all existing as well as new construction condominiums?

Reserve Studies are not automatically required. Mortgagees must review the homeowners' association budget (the actual budget for established projects or the projected budget for new projects) for all projects. If the budget is determined by the mortgagee not to be adequate as stated in ML 2009-46 B, they may request a reserve study to assess the financial stability of the project.

46. If the builder is providing a 10 year warranty, does the condo unit have to be started prior to the case number being ordered?

No, however a case number will not be assigned unless the project has received approval either through DELRAP or HRAP.

47. If a Lender cannot determine the owner occupancy rate or number of FHA loans within a project can they continue to state "UNKNOWN" as in the past on spot loans?

No, however FHA will display the concentration information for each approved condominium development on the approved condominium listing, which can be found on both FHA Connection and on the public website at www.hud.gov.

48. Will the Working Capital Clause as stated in HB 4265.1, Appendix 24 still be required to be in the legal documents?

HUD does not require that the legal documents contain a Working Capital Clause.

49. Are HOA Fidelity Bond Requirements still in place as before?

Yes, for projects that consists of 20 units or more. The coverage must be no less than a sum equal to three months aggregate assessments on all units plus reserve funds.

50. Will all HOC's follow the same standards and checklist(s) for project approvals?

Yes

51. Can qualified application preparers submit application packages to the HOC's under HRAP Procedures?

Yes, with all the required documentation and applicable appendixes.

52. Are any of the requirements grandfathered in for projects that are currently approved?

No, beginning December 7, 2009 all projects will be required to comply with FHA Condominium Guidelines as stated in ML 2009-46 A and ML 2009-46 B.

53. If a project's first phase was approved prior to October 1, 1008 with additional phasing after December 7, 2009, will DELRAP be allow at this point or will the project need to be processed under HRAP?

Additional phasing can be processed with either DELRAP or HRAP. The processing DELRAP Lender will be required to certify that the project continues to meet all FHA requirements.

54. Will the project remain on the system if the initial phase approved prior to October, 2008 with ongoing subsequent phase submissions?

Yes

55. Other then stated in the Declaration, will additional documentation be required to confirm the requirements of the Transfer of Control?

No

56. FNMA has re-instated their project approval process; will HUD accept their current approval in lieu of an FHA Attorney Opinion Letter?

FHA does not have a reciprocity agreement with Fannie Mae. Mortgagees requesting FHA project approval must submit the request through either DELRAP or HRAP.

57. On a conversion that is undergoing remodeling or rehabilitation, must the entire building be converted to condos before HUD will insure a loan?

Yes, conversion to condominiums occurs in those projects which involve changing the title of an existing structure generally under one title, to property that is separated into units so that the title to most units can be held separately. In the event that FHA is insuring a mortgage on a unit and an undivided interest in the common elements on a project undergoing remodeling or rehabilitation, the entire condominium project, including the common facilities must be 100 percent completely built before any mortgage may be endorsed. Escrow provisions will be permitted for weather related delays for common areas only.

58. Attachments B and C, do these need to be signed by a DE underwriter?

- Attachment B must be completed by the DELRAP Lender certifying that the project meets all FHA Condominium Requirements and must be placed in the project file.
- Attachment C will be completed by the loan processing lender certifying that the unit in connection with the loan file has been verified to be in a project that to the best of their knowledge continues to meet all FHA Condominium Requirements. This certification will be placed in the case binder.

59. If the condo project is not on the FHA list, but is on the VA approved list, is the condo project acceptable?

No, FHA does not have a reciprocity agreement with VA; the project must be processed through either DELRAP or HRAP.

60. In those circumstances where the FHA guidelines and state statute are in conflict, must the documents comply with FHA guidelines or the state statute?

The DELRAP Lender must provide certification that;

- The project meets all requirements of Section 203b of the National Housing Act, 24 CFR 203;
- State and local condominium laws **and**;
- Any Mortgagee Letters thereto applicable to the review of condominiums.

61. For existing condo communities that are approved and will transition to the new database, what will be the protocol for the 30% absorption going forward? Will only the new phases be affected or will the total absorption from the initiation of the condo approval limit FHA financing based on the history of the entire project?

On new construction multi-phased projects the owner-occupancy and 30% (50% temporary increase) concentration are calculated on the first declared phase and cumulatively on subsequent phases if the ownership of the condominium project remains the same. Existing projects are considered to be complete and therefore the concentration would be based on the total number of units within the project.

62. If the FHA approved project that falls within the transition period has a greater than 30% (50% temporary increase) concentration of FHA loans at the time of the transition, will it still be transitioned and grandfathered in or will its approval be withdrawn?

Case numbers assigned prior to the transition date will be honored however case numbers will not be issued in projects that do not meet FHA requirements with the implementation of the new policy on December 7, 2009.

63. If a case number is received prior to December 7, 2009 under the existing policy, a conditional commitment is issued however the original applicant is denied. Can the conditional commitment be transferred to the new applicant and the old condo guidelines after December 7, 2009 when the new guidelines go into effect?

No

64. If a new construction condo project that has been approved FHA phase by phase and is already over 30 % (50% temporary increase) FHA concentration will a case number be issued?

Case numbers will not be issued in projects that do not meet FHA requirements as stated in ML 2009-46 B however the FHA concentration may be increased up to 100 percent concentration providing the project meets all of the basic condominium standards plus the additional items as stated in ML 2009-46 A.

65. Does a lender have to have a borrower to obtain a FHA Case Number?

Yes

CONDOMINIUM PROJECT APPROVAL

FAQ's (SITE/APPRaisal REQUIREMENTS)

1. What is the definition of "site" condo?

FHA definition: A site condominium is defined as a single family totally detached dwelling (no shared garages or any other attached buildings) encumbered by a declaration of condominium covenants or condominium form of ownership.

2. What appraisal form will be used in completing an appraisal for site condos, FNMA 1073 or 1004?

Appraisal data is collected and reported on Fannie Mae form 1004 in accordance with the Valuation Protocols, Appendix D of HUD Handbook 4150.2.

3. If a project was previously approved more than 2 years ago however was recently rebuilt due to a fire, is the project still approved?

FHA will move all currently approved condominium projects to the new approval list and FHA Connection database. Recertification will be based on the date of the initial project approval as stated in ML 2009-46 B.

4. Will 2 unit condominiums be added on HUD's approved condo list once they are approved through either the DELRAP or HUDRAP process?

Yes

5. When is it necessary for an Environmental Site Review to be performed?

An Environmental Site Review is required if the project is processed using the HRAP option and where the project does not meet the following conditions;

- A condominium plat or similar development plan and any phases delineated therein have been reviewed and approved by the local jurisdiction and, of applicable, recorded in the land records **and**
- The construction of the project's infrastructure and buildings containing the condominium units has proceeded to a point that precludes any major changes.

6. Will a PHASE I Environmental required to be updated if the report is over 6 months old?

It is not a FHA requirement to update a PHASE I.

7. Is any training planned or will be planned on how lenders processing Condominium Projects using DELRAP might mitigate environmental risk?

None is planned at this time. The guidance outlines the requirements on items that the lender must avoid or mitigate before completing its review process.

8. When completing an appraisal for a site condo what comps will be used, site condo's or single family.

Site condo comparables should be used in completing the appraisal report. If the appraiser uses comparables other than site condos they must provide an explanation on the appraisal report.

9. When does the acceptance of a Building Permit and Certificate of Occupancy go into effect?

- For Site Condominiums the effective date was June 12, 2009.
- All other project types the effective date is December 7, 2009.

10. In reviewing and analyzing pending special assessments what should be considered?

Some items to be considered;

- Is the assessment required to be pre-paid or is spread out over a period of time.
- What is the purpose of the assessment?
- Does the assessment affect the present market value?
- What impact will the assessment have on the future value and marketability of the property?

11. In reviewing and analyzing pending legal action against the condominium association or its officers or directors what should be considered?

Some items to be considered;

- How does the legal action impact the future solvency of the HOA?
- The ability for homeowners to transfer title.
- Does the action impact the homeowner's rights?

12. Does the requirement of "no more than 10% of the units may be owned by 1 investor", apply to apartment conversions' where the developer owns all of the units with a large portion rented?

All condominium projects must meet the eligibility requirements set forth in ML 2009-46 B regardless of project classification.

13. What does separate ownership per phase mean in a multi-phased project?

Separate ownership occurs when the original developer transfers their interest of the project to another party on either one or multiple phases.

14. Can un-sold units be substantially complete and still allow a 100% completed unit to close? If not why not?

Yes, units can be sold and receive FHA Insurance providing;

- The unit is located in an approved FHA project;
- All common areas and amenities are completed; and
- The unit has received a Certificate of Occupancy (CO) or Temporary/Conditional Certificate as outlined in ML 2009-46 B.

15. Can secondary residences be rented out at all during the course of the year and still be considered as secondary residences as noted in 2009-46 B?

FHA does not prohibit renting of secondary residences providing the residence meets the definition as stated in the Code of Federal Regulation. "To be considered a secondary residence the mortgagor maintains or will maintain a part-time place of abode and spends (or will spend) less than a majority of the calendar year; is not a vacation home; and eligibility for insurance was to avoid undue hardship to the mortgagor."

Reference; 24 CFR 203.18(f) (2)

16. For the HRAP option, what will be the process for completing the Environmental Reviews, who will complete the reviews and what will the time frame for completion be?

- Site reviews will be performed by individuals designated by HUD;
- Time frames are determined by complexity of the review and site conditions;
- Environmental issues/conditions that may require mitigation.

17. Since environmental reviews are not required for the DELRAP option what alternative documents or partial review does the lenders have to provide in lieu of a full review to avoid or mitigate environmental conditions that they become aware of?

If an environmental condition is identified by either the appraiser or if the lender is aware of an existing environmental condition through remarks provided on the Builder's Certification, form HUD-92541, the appraisal or other known documentation, the lender **must** avoid or mitigate those conditions before completing the review process.

18. ML 2009-46 B states the only documentation acceptable to determine the need for Flood Insurance is either a LOMA or LOMR and does not mention the acceptability of an Elevation Certificate. ML 2009-37 dated October 1, 2009 (Condominiums) states that the HOA is responsible for obtaining and maintaining adequate flood insurance making it appear that the Elevation Certificate is acceptable. If a LOMA or LOMR is obtained flood insurance is not required however insurance is required with an Elevation Certificate. Will FHA accept an Elevation Certificate?

If the condominium unit (structure) is subject to the Single Family MPS (Minimum Property Standards) requirements, that unit (structure) to the same extent as a dwelling that is held in traditional fee simple ownership, an Elevation Certificate would be acceptable. (Site Condo's)

If the condominium project **contains nonresidential community structures** (i.e. clubhouse etc.) those would not be subject to the single family MPSs and therefore only a LOMA or LOMR would be acceptable for that project.

19. Some local building jurisdictions issue conditional certificates of occupancy on projects where common areas have not been entirely completed. On phased projects conditional C/O's are common. How is this issue going to be handled?

Temporary certificates may be allowed under the following circumstances for new construction and conversions:

- All common area and amenities must be completed;
- The temporary certificate that was issued clearly indicates that the unit is habitable and eligible for immediate occupancy;
- The jurisdiction that is issuing the temporary certificate has in place a standard protocol whereby permanent certificates are issued and maintained.

20. The new condo letter does not address high rise buildings; will FHA allow vertical buildings to be phased floor by floor?

Yes, FHA will recognize legal phasing in vertical buildings if;

- The floors are legally phased in groupings of no less than five floors;
- At least a temporary certificate of occupancy has been obtained and **all** common areas and amenities have been completed; **and**
- A third party completion bond has been obtained.

21. How will live/work units be handled and what will the eligibility requirements consist of?

Live/work projects are for all purposes normal looking condominiums that have been zoned by the local jurisdiction to allow individual units mixed use percentages of professional work and residential usage. The purpose is to attract professional workers to live in specific areas and work out of their units (Artist, Attorneys, Real Estate and Insurance agents). For the most part, they include conditions that don't meet FHA's condominium requirements. Mainly, local jurisdictions require approximately 66 percent of the unit be used for professional work. This exceeds FHA's requirement that a project have no more than 25% of a projects total floor area be used for commercial purposes.

22. Why are Manufactured Housing Condo Projects not treated like site condos, when the M/H condominium units are basically very similar in character to site?

Due to the complexity of manufactured housing requirements and to protect the interest of the Department, FHA has made the determination that Manufactured Housing Condominium Projects will **NOT** be treated as a site condo and must be submitted to the appropriate HOC for completion.

23. Since the processing of MHCP's also became effective June 12, 2009, are the current checklists to be used to process MHCP?

Manufactured Housing Projects must meet all requirements set forth in ML 2009-46 B for all case number assigned on or after December 7, 2009; MHP's must be submitted to the appropriate HOC for processing. In addition, these projects must meet the individual Manufactured Housing eligibility and general requirements as set forth in ML 2009-16.

24. Will the certifications that are contained in Handbook 4150.1, Chapter 11, Appendix A & C OR Appendix B & D continue to be required when the new policy goes into effect on December 7, 2009?

Effective December 7, 2009 those Appendixes's will not be required for projects processed under the guidelines of ML 2009-46 B.

If a project is located in a jurisdiction that does not issue a building permit (or its equivalent) prior to construction and a Certificate of Occupancy (or its equivalent) upon completion of construction, a condominium unit/project that is one year old or less must have either an Early Start Letter (with a minimum of three inspections by an FHA Roster Inspector) or be covered by a 10 year warranty to be eligible for a high-ratio mortgage insurance.

25. If a builder checks either box a, b, c or d on item 11 of HUD Form 92541, Builder Certification will this satisfy the requirement of an acceptable AFHMP, Affirmative Fair Housing Marketing Plan?

Form HUD-935.2C, Affirmative Fair Housing Marketing Plan-Condominium or Cooperatives, is to be used for condominium projects. If "a, b, c, or d" is checked on response to Question 2 in the Applicability section, the developer is not required to complete an AFHMP. The developer should complete block 11 on form HUD-92541, Builder's Certification of Plans, Specification and Site.

26. Is DELRAP allowed for new construction condo projects?

Yes