MORTGAGE BANKERS ASSOCIATION

December 20, 2022

The Honorable Julia Gordon
Assistant Secretary for Housing and Federal Housing Commissioner
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410-0001

Re: HUD-FHA Insured Mortgages for Multifamily Properties

Dear Commissioner Gordon:

On behalf of the Mortgage Bankers Association (MBA),[1] I write to respectfully request that HUD provide greater flexibility in its policies for FHA multifamily mortgage insurance programs. The Administration is calling for significant increases in housing supply, a necessary step given a mismatch between supply and demand that has reduced apartment vacancy rates to 6.8 percent according to the Census Bureau – among the tightest they have been since the mid-1980s. Meanwhile, the industry is facing growing construction and labor costs, supply chain issues, and rising interest rates. The multifamily accelerated processing (MAP) program at HUD is critical to supporting the creation of safe and decent rental housing, and HUD must work with lenders to ensure the continued production of multifamily housing units.

As in previous crises, HUD's role as a countercyclical force has been a backstop for the market, to ensure much needed housing was not lost. With the demand for housing at all-time highs, HUD's ability to provide an effective and efficient multifamily execution is imperative. This letter requests that HUD increase flexibility so that quality rental housing continues to be produced despite the complications COVID has created in the construction industry.

Mortgage Modification/Firm Commitment Extension

Until very recently, lenders were experiencing significant delays in HUD processing, creating a substantial backlog of projects in the queue. We appreciate that HUD was able to reprogram resources and has now eliminated the queue. However, the underwriting for many deals was completed as rents continued to rise, and before interest rates began

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,100 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

climbing dramatically. Moreover, construction costs remain high, and needed materials can be difficult to obtain.

The underwriting for deals that waited in the queue was completed before and during COVID. The inflation our nation is now experiencing was brought on by the pandemic, due to labor shortages, supply chain issues, etc. Loan applications begun during the pandemic are now being negatively impacted by the significant change in our economy. Because many of these changes occurred while applications waited in the queue, we urge HUD to provide flexibility during this time of high need amidst our quickly changing economy.

HUD has been unwilling to allow more than minimal mortgage increases at final endorsement for cost increases experienced during the COVID pandemic, citing MAP Guide 13.22(B) that "cost overruns are not a basis for granting a Borrower's request for mortgage increase." However, Section 13.21(B)7 states that increases to a mortgage amount may be granted when there are "Construction hard cost increases caused by a natural disaster declared by Federal or State government, to the extent not covered by casualty insurance." The COVID pandemic has been declared a disaster by both the federal government and HUD itself. Numerous waivers to MAP Guide provisions, as well as other policies, have been provided to ensure access to safe, affordable housing and to protect the financial viability of FHA-insured properties. The COVID pandemic was the direct and proximate cause of nationwide supply-chain challenges and labor shortages that continue to result in significant increases in construction prices. MBA believes that the language in the MAP Guide Section 13.21(B)7 provides HUD with the authority to allow increased mortgage amounts up until final endorsement.

It is in the best interest of the consumer for lenders and HUD to work together to increase mortgage amounts without additional risk to the Agency. For those deals that have closed, developers and owners have borne the increased costs out of pocket, draining their equity and resources to pursue additional multifamily deals. This leads to a reduction of multifamily housing construction at a time when the need is great.

In addition, a number of new construction projects have failed to move forward because HUD will not allow reconsideration of rents that have increased and are reflective of current market conditions. Amidst increased interest rates, many construction loans are debt service constrained. Increased rents often merely maintain the mortgage amount in the firm commitment, and do not result in an increase to the committed amount.

There are several solutions HUD should implement to help increase the supply of rental housing:

1) Review underwritten rents on deals after Firm Commitment but prior to initial endorsement to reflect the most up-to-date debt service mortgage proceeds (i.e., reflect market update in rents). This flexibility is permitted under the current MAP Guide.

2) Permit mortgage increases at final endorsement for projects with cost overruns due to the COVID-19 pandemic that can sustain additional debt service.
3) Allow regional offices to grant additional 120-day commitment extensions to allow developers to wait for downward adjustment in interest rates before locking the rate and closing, which comes at no additional risk to HUD. These extensions are being liberally granted for various other reasons, and are permitted by the MAP Guide.
4) Reopen Firm Commitments and revise underwriting if no further extensions are available and in line with the MAP Guide timeframes.

More holistically, MBA urges HUD to reconsider the process of review of mortgage revisions. In this environment of rising costs, many loans could benefit from a review and ability to modify at two critical points: after firm commitment and prior to final endorsement. Normalizing and streamlining this process could reduce delays, inconsistently applied policies, and employee time at headquarters and in the field.

Large Loan Limit Threshold

For several months, HUD has been reviewing a proposal by MBA and supported by other industry groups to increase the large loan limit threshold. The Large Loan Limit threshold exists to create more stringent underwriting requirements, including increased debt service coverage. The current threshold of $75 million has not kept pace with inflation. Labor and materials costs are at record highs, putting upward pressure on FHA loan amounts. Since the last adjustment of the threshold, the cost of construction has increased significantly; the Producer Price Index (PPI) by Commodity for residential construction goods has increased by 44% since the $75 million threshold was established in 2014. HUD should increase the threshold in the Multifamily Accelerated Processing (MAP) Guide from $75 million to $120 million.

GREEN MIP Extension

Section 6.6.2 of the MAP Guide currently states that recently built (within the last three years) properties may no longer use ENERGY STAR® Existing Building Certification as Green Certification after December 18, 2022. As a result, it will be impractical, overly onerous, and in many cases impossible for properties built within the last three years to qualify for the Green MIP. This disincentivizes recently built projects seeking 223(f) financing from pursuing energy efficient measures, which is contrary to the Green MIP program's purpose.

At the time the new chapter was drafted, HUD anticipated that lenders would educate borrowers so that upon the expiration of the eligibility of ENERGY STAR® Existing Building Certification, developers would have engaged in one of the remaining new construction certification programs in a timely manner. This expectation on developers was contravened by the continuing effects of COVID-19. The impact of COVID-19 delays, along with the continuing slowdowns arising from supply chain disruptions, labor shortages, reduced jobsite productivity, and other effects results in continued protraction of delivery of projects that were planned and started well before the expiration of the two-year grace period in MAP 6.6.2.

The projects now coming to construction completion are projects whose planned completion was well before the end of the two years. As a result of the construction delays, apartment projects are delivering well behind schedule, which is delaying their ability to lease-up and stabilize and thus meet the requirement for three consecutive months of the programmatic debt service coverage prior to loan endorsement as noted in MAP Guide Section 3.7.2.B.1. Therefore, MBA asks that HUD extend that two-year grace period for twelve additional months to expire on December 18, 2023, to allow those projects already in the development pipeline at the time of the 2020 MAP Guide to reach completion. Although HUD has verbally reported that there will not be an extension, MBA urges HUD to reconsider given the timing of the announcement and the intervening COVID pandemic. Our members have a number of ideas on how to promote the GREEN MIP program and make it successful, and MBA would welcome the opportunity to discuss this further.

Off-site Storage of Construction Materials

Given supply chain issues and inflation, developers can often save time and money by purchasing construction materials in advance or in bulk. However, HUD significantly limits the allowable items and restricts storage locations of these goods. HUD should provide greater flexibility on obtaining and storing goods that can reduce production costs for FHA multifamily properties.

Wind/Named Storm Insurance

Wind and Named Storm insurance coverage is a requirement of Property General Liability insurance policies in specific areas and states. This coverage can be difficult to place in the insurance market due to a lack of availability in some areas. For example, in some locations this coverage is simply not available. In markets where insurance is available, the deductibles are often much higher than HUD’s maximum deductible. In these situations, with high deductibles and few insurer options, borrowers are often forced to purchase deductible “buy down” coverage to meet HUD requirements. This buy down coverage pays the additional deductible beyond the maximum HUD- allowed deductible. If buy down coverage is available, the cost can add tens of thousands of dollars to the insurance and operating cost of HUD-insured projects. This additional cost is particularly detrimental and creates a hardship for affordable projects with restricted rents that are unable to be increased to cover unexpected operating costs. As the insurance market continues to evolve, HUD’s criteria must evolve as well. HUD should review minimum insurance deductible requirements and the impacts of increased insurance costs on properties. We understand that guidance has been drafted and is awaiting final clearance.

We believe that many of these concerns are under review at HUD but have been delayed for reasons unknown to MBA and our members. Accelerating the creation of safe, quality housing must take precedence when the need is so great. We look forward to meeting with you to discuss these items in greater detail and to a timely resolution of these important issues.

Sincerely,

Robert D. Broeksmit, CMB
President and Chief Executive Officer
Mortgage Bankers Association