



U.S. Department of Housing and Urban Development

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Issue

Mortgagee Informational Bulletin #12

The Detroit Multifamily Hub has implemented this informational bulletin to keep mortgagees up to date with changes or news from our Hub relating to development issues. We're happy to cover any issues in the bulletin on which you have questions; the bulletins are issued on an as-needed basis.

New Special Conditions

The Detroit Multifamily Hub has instituted several new special conditions to its firm commitments in response to issues raised by HUD's Asset Management Division as well as in response to increased risk mitigation efforts by the department. These special conditions are set forth below:

1. Security Deposit Accounts: "The mortgagor must fully fund the tenant security deposit account prior to closing and must certify in writing that all tenant security deposits are kept separate and apart from all other funds of the project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account. In addition, at closing, proof of the establishment of the security deposit account must be provided in the form of a bank statement or similar evidence acceptable to HUD." **[Applicable to all commitments].**
2. Updated Rent Rolls: "The owner must submit an updated rent roll dated no more than two weeks prior to closing detailing the occupancy level at the project. If HUD determines that the updated rent roll shows a significant change in occupancy from that submitted at the time of application, then this commitment shall be of no force or effect and may be canceled by HUD." **[Applicable to all refinancing transactions and substantial rehabilitation deals where the project is occupied].**
3. Project Payables: "Project Accounts Payable aged 60 days or more, must be paid prior to closing and proof of payment submitted to HUD." **[Applicable to all commitments other than those for new construction].**
4. Reserve for Replacements Withdrawal Requests: "Withdrawals from the reserve for replacement account for work completed prior to initial endorsement will not be approved by HUD post-closing." **[Applicable to all refinancing commitments].**
5. Registration in APPS: Prior to closing, the owner and the management agent must register in HUD's APPS system as a business partner. For assistance with this process, please contact HUD at 800-767-7588, Mon-Fri 9am -8pm (eastern time) or visit the following website: <http://www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm> **[Applicable to all commitments].**

Analysis of Debt and Real Estate Owned

In an effort to further the department's quality assurance and risk mitigation goals, the Detroit Multifamily Hub is now requiring that all applications for market rate FHA-insured financing include a lender review of debt and real estate owned by all principals of the mortgagor entity. The analysis should cover those entities that also are required to file form 2530 with HUD. HUD requires financials on key principals, and an analysis of other business concerns (including for example a sampling of other business concerns). The financials should include a balance sheet and supporting schedules. Historically HUD has not required full financials on all key principals, particularly for multiple tiered ownership entities, but has required enough information to assure ourselves the Borrower is creditworthy. Indeed, even now we are not requiring full financial statements for all key principals – just the REO schedule and information on maturing debt, which is necessary in the current real estate finance and credit environment in order to get to a reliable determination of credit worthiness. To be clear, our view is that this is within the parameters of the existing MAP requirements for review of financial statements, (i.e. Section 8.4.A. 1 and 2), though we acknowledge we are applying this aspect of the analysis more rigorously than in the past. You, as the lender, may find the attached template helpful, although so long as you can get similar information sufficient to complete your analysis and recommendation and present it in a way that makes sense, you can use whatever format you wish.

Ten (10) Year PCNA Renewals

Each FHA-insured deal in the Detroit Multifamily Hub has the following language (or something similar) appended to the Regulatory Agreement in the form of a rider:

Pursuant to the Secretary's requirements for insured mortgages, as of the current date, the Secretary has the right, commencing in the tenth (10th) year of the term of the Mortgage, and every ten (10) years thereafter, to reevaluate the Project's Reserve Fund For Replacements needs, and, if appropriate in the sole determination of the Secretary, adjust the Owner's required deposits to the Reserve Fund For Replacements at each 10-year period. To assist HUD in the reevaluation of the Reserve Fund For Replacements, the Mortgagee must obtain a Project Capital Needs Assessment ("PCNA") every ten (10) years which covers the next ten years of the Project, or the balance of the term of the Mortgage, whichever is less, plus two (2) additional years. To carry out the obligations of the Mortgagee hereunder, the Mortgagee shall order a PCNA at least 90 days prior to the 10th anniversary date of the Mortgage, and thereafter 90 days prior to each subsequent 10th anniversary date. Each PCNA shall be ordered by the Mortgagee under instructions to the contracting party to deliver the PCNA to the Mortgagee within 60 days of the date of the order. Upon receipt of the PCNA, the Mortgagee shall forward the original to the Secretary, and shall concurrently send a copy to the Owner. The Mortgagee shall in no event be liable or held responsible for any delays in the receipt of the PCNA from the contracting party, nor shall be held liable or responsible to the Owner for any failure in the timely delivery of the copy of the PCNA to the Owner. Upon the Secretary's receipt of the PCNA, the Secretary and or the Mortgagee may, but shall not be obligated to, consult with the Owner on the results of the PCNA and the intended action, or inaction, of the Secretary with respect to the adjustment of the Reserve Fund For Replacements. At such time as the Secretary makes a determination of the adjustment, if any, in the deposits to the Reserve Fund For Replacements required of the Owner, it shall so inform the Owner and the Mortgagee not less than thirty (30) days prior to the effective date of the adjustment under the Regulatory Agreement. Upon receipt of such notice from the Secretary, the Owner shall commence payments of the adjusted Reserve Fund for Replacements on the effective date stated in the HUD notice. Failure by the Owner to timely make the payment of the adjusted Reserve Fund For Replacements commencing as of the effective date specified by the Secretary in its notice to the Owner shall constitute a default by

the Owner under the Regulatory Agreement, and, at the option of the Mortgagee, a default in the Mortgage.

*Owner agrees to cooperate with the Secretary and the Mortgagee in carrying out their responsibilities hereunder, including Owner's agreement to permit, and cooperate with, the ordering and carrying out of the PCNA, including, but not limited to, making the Project available for inspection, testing and evaluation, and making all books and records of the Project and the Owner relevant thereto, available for inspection, and copying, in each case by the Secretary and the Mortgagee, their employees, agents and contractors, at all times during customary business hours of the Project. Further, Owner agrees to pay all costs and expenses of the Mortgagee, its employees, agents and contractors in the preparation, production, and distribution of the PCNA within ten (10) days of being invoiced by the Mortgagee for such costs and expenses. Under current regulations and guidelines of the Secretary, the Owner shall be permitted to pay such costs and expenses out of the Reserve Fund For Replacements, and hereby authorizes the Mortgagee to charge the costs and expenses associated with each PCNA against the Reserve Fund For Replacements. Failure to pay any such costs and expenses as invoiced by the Mortgagee within thirty (30) days of such invoice, shall, at the option of the Mortgagee, constitute a payment default under the Mortgage. **Owner acknowledges and agrees that all funding schedules and withdrawals from the reserve fund for replacement shall be done in accordance with HUD Notice 99-33 and any modifications, amendments, revisions or supplements to such notice or as otherwise required by the Secretary to be in compliance with the rules, regulations and qualifications governing the reserve fund for replacements.***

The first of the projects where this PCNA rider was required are now hitting the ten year mark; as such; lenders must be aware that new PCNAs must be ordered in conformance with the regulatory agreement rider. Project owners can expect notification from HUD approximately 6 months prior to the 10 year PCNA anniversary date informing them of the need to order the new PCNA. In addition, lenders should analyze their portfolios to determine what projects are now ripe for new PCNAs and work with project owners to get the PCNAs ordered in accordance with the Regulatory Agreement requirement.