



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: April 10, 2020

Mortgagee Letter 20-10

To: All FHA Section 232 Approved Mortgagees

Subject: Interim Procedures to Address Site Access Issues Related to Section 232 Mortgage Insurance Applications During the COVID-19 Pandemic

Purpose

To help assure the continued effectiveness of the Section 232 Program in facilitating the construction, rehabilitation, purchase and refinancing of residential care facilities despite the limitations on third-party site access brought about by the COVID-19 Pandemic.

Effective Date

This Mortgagee Letter is effective immediately upon issuance.

Affected Programs

Section 232 of the National Housing Act and additional programs to the extent they provide additional mortgage insurance to Section 232 FHA-insured facilities

Public Feedback

HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send feedback to HUD's Office of Residential Care Facilities (ORCF) at Leanthinking@hud.gov. HUD will consider the feedback in determining the need for future updates.

Background

ORCF is aware that most residential care facilities, including but not limited to skilled nursing

facilities, have prohibited non-healthcare workers from entering their facilities. The Centers for Medicare & Medicaid Services (CMS) has restricted visitors and non-essential health care personnel, except for end-of-life situations (with strict conditions) in all of the nation's nursing homes. These restrictions extend to individuals who need access to nursing homes to conduct on-site inspection to comply with the Section 232 insurance requirements.

In an effort to continue to support healthcare facility financing in this difficult time, ORCF has made temporary modifications to the established processes for on-site inspections.

Third-Party Site Inspections

The following temporary modifications pertain to third-party site inspections for Section 232 FHA-insured healthcare facilities with effective dates within 45 days of the issuance of this Mortgagee Letter. For those inspections, the FHA Lender will help facilitate clear communication between the third-party report preparers and ensure that all third-party report preparers have access to the full portfolio of photos taken at the facility.

1. Property Capital Needs Assessments (PCNA). HUD will require the following of the PCNA preparer when he or she is unable to access the interior of the building and/or travel to the subject site for an exterior inspection:
 - A review of the most recent PCNA on the subject (if applicable and available), and
 - A review of photos of building areas and components that are provided by facility staff. The PCNA preparer will inform the on-site contact of the building areas and components that need photos, including photos showing measurements to assess accessibility under the FHA/UFAS/ADA. Please see the attached Addendum entitled "Photos and Section 232 PCNA's and Environmental Documentation" for best practices, and
 - A review of virtual, publicly available sources, including satellite photos, and
 - Phone interview(s) with facility staff, and
 - Based upon their review of photos, publicly available sources, and discussions with facility staff, the PCNA preparer may also arrange for a virtual, video inspection of portions of the building(s)/site deemed necessary, and
 - Based upon their review of photos, and discussions with facility staff, the PCNA preparer will include in their report any noted necessary FHA/UFAS/ADA (accessibility) repairs, and
 - An on-site exterior inspection of the subject may be performed if practicable; however, this is not required.
 - Federal accessibility requirements cannot be waived.

2. Appraisals: HUD will require the following of the third-party appraiser when he or she is unable to access the interior of the building and/or travel to the subject site for an exterior:
 - The appraiser will review photos taken of the facility or site, and on projects with existing buildings, the PCNA; and
 - The appraiser will review market competitor/appraisal comparables using a combination of internet searches, phone calls to such facilities, surveys conducted by the marketing staff of the subject facility, and information available from national research firms; and

- The appraiser will review virtual, publicly available sources, including satellite photos; and
- On projects with existing buildings, the appraiser will interview the Administrator of the subject (and as needed supplemented by interviews with other facility staff); and
- Based upon their review of photos, publicly available sources, and discussions with facility staff, the appraiser may also arrange for a virtual, video inspection of the subject if it is deemed necessary; and
- An external subject site inspection and market visit may be performed if practicable; however, neither are required. When there is no site/market visit, there needs to be extra vigilance on the part of the appraiser to use the above resources to understand the conditions of the subject and market. If a market visit is performed, appraisers should not attempt to enter other facilities; and
- If the appraiser believes that using these alternative inspection methods would not result in a credible value opinion, they should refuse the assignment, and
- The appraiser will fully disclose the scope of the inspection or lack thereof. Discussions with property contacts should be clearly described, and
- From the Appraisal Institute: “Appraisal reports should include a discussion of market conditions, and so mention the coronavirus outbreak and its possible impact. However, it is not appropriate to include a disclaimer or extraordinary assumption that suggests the appraiser is not taking responsibility for analysis of market conditions.”

3. Section 232 Phase I Environmental Site Assessments, Asbestos Surveys, and Radon Testing: If the Environmental Site Assessment (ESA) preparer is unable to access the interior of the building and/or travel to the subject site for an exterior inspection, ORCF will not object to foregoing either or both, provided:

- The Environmental Documentation is conducted in accordance with ASTM E1527-13 (or most recent version), and
- The preparer reviews photos taken of the facility and publicly available sources (such as satellite photos). Please see the attached Addendum entitled “Photos and Section 232 PCNA’s and Environmental Documentation” for best practices, and
- As needed, phone interview(s) with facility staff; and
- The site does not have higher risk past, current or adjacent uses, including but not limited to underground storage tanks, contaminated soil or groundwater, dumps, solid or hazardous waste landfills, brownfields or superfund sites. In such instances, ORCF may require an in-person site visit by the ESA preparer. In cases where ORCF requires a physical site visit, ORCF will accept a draft ESA report that includes all information except the physical site visit (the preparer must view the interior and exterior by other means) for purposes of submitting the application. The final ESA with the site visit must be submitted before ORCF will issue a Firm Commitment.

Regarding asbestos surveys and radon testing: In situations where interior access to the subject is limited and the asbestos survey (if applicable) and/or radon testing cannot be completed prior to application submittal, ORCF will require a Firm Commitment condition requiring the asbestos survey and/or radon testing (and any required mitigation to be identified) prior to closing. Such radon testing must test 100% of the ground level units/rooms and 10% of the upper floor units/rooms in all buildings included in the project.

Status of State Historic Preservation Offices

The National Conference of State Historic Preservation Officers (NCSHPO) is posting a list of the operating status of SHPO offices during the COVID-19 outbreak. The list is available on the NCSHPO homepage and will be updated periodically at <https://ncshpo.org/>.

Lender Underwriter Site Visits

For Section 232 applications submitted within 45 days of issuance of this Mortgagee Letter, ORCF is waiving the requirement for a lender underwriter site visit in those instances when the FHA Lender is unable to access the interior of the building and/or travel to the subject site. If the lender underwriter site visit is not conducted, the underwriter must view the portfolio of photos discussed above and conduct a phone interview with pertinent facility staff. ORCF encourages this phone interview be done in conjunction with interview(s) conducted by third party providers as detailed above.

Expiring Appraisals

In the recent past, ORCF has granted waivers for appraisals that are older than the 180 days allowed for refinances and 120 days for new construction, as timed from the effective date of value. ORCF was comfortable with these waivers when it was reasonably certain there were no major shifts in the market or when updated financials showed steady operations. Due to the COVID-19 National Emergency, it is no longer the case that ORCF can assume there have been no market shifts. For this reason, ORCF will no longer grant waivers to appraisal expiration dates.

The effective date of value for Section 223(f), Section 241(a), and Section 232 sub-rehab loans is defined in the Section 232 Handbook as the date the property was inspected. When the subject or market cannot be inspected, the appraiser is instructed to tie the effective date of value to the date after the end-date of the most recent historical income and expense statement included in the report. For new construction, when the site or market cannot be inspected, the effective date of value should be the date the value was determined.

Inspections on New Construction, Substantial Rehabilitation and Section 241(a)s

For monthly construction inspections on Section 232 new construction, substantial rehabilitation, or Section 241(a) within 45 days of the issuance of this Mortgagee Letter, ORCF will allow a deviation in the normal process for performing these meetings as follows:

- In lieu of an in-person inspection, a live, virtual inspection of building areas and construction that would normally be viewed in the inspection using a video app (e.g. FaceTime) will be allowed. If this option is chosen, general contractor staff will direct the video from the

construction site, and the supervisory architect and HUD contract inspector may participate virtually (if either or both are not attending the inspection in-person).

- The HUD-92448-ORCF (Contractor's Requisition) may be signed electronically.
- Pictures must be sent electronically to the supervisory architect and the HUD contract inspector.

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0605. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to the Office of Residential Care Facilities by email at LeanThinking@hud.gov. For additional information on the Section 232 Program addressed in this Mortgagee Letter, please visit: https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care.

Signature

Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner

**MORTGAGEE LETTER 20-10 ADDENDUM:
Photos and Section 232 PCNA's and Environmental Documentation**

This Addendum contains best practices on photos for Section 232 PCNA's and Environmental Documentation that should be taken by facility staff when an inspection of the subject interior and/or exterior is not possible during the COVID-19 National Emergency.

General Comments:

- Sufficient photographs must be taken at a high pixel quality to depict the general condition of the project and to allow a desk reviewer to understand the quality, condition, and adequacy of the physical plant. The photos must identify all types of buildings, amenities, ancillary structures, finishes, adjacent properties of the subject property, as well as all interior dwelling unit finishes, common areas, mechanical areas, basements, amenities, adjacent properties, site features, etc. When taking a close-up photograph on the exterior of the property, it may be advantageous to take an additional photo of the surrounding area, to better identify the location of that photo.
- For pictures of a resident unit, the first photo in that series of photos shall be of the unit number (excluding the resident's name) and photos following the picture of the unit number should be photos that pertain to the conditions of that specific unit.
- All photos shall be date stamped.
- Cameras should be leveled and focused to provide the appropriate information without distortion, as well as capturing contextual photographs, mid-range photographs, and close up photographs of any measurements taken.
- Where appropriate to demonstrate compliance or non-compliance with an accessibility standard such as FHA/ADA/UFAS, a measuring device shall be positioned in the photograph perpendicular to provide sufficient context and information for verification and examination.

PCNA Photos:

1. Site and Structural Frame / Building Envelope:

- Property identification sign
- General overview photos of property, including property entrances
- Features such as landscaping, retaining walls, drainage ponds, fencing, security gates, playgrounds, dog parks, tennis courts, pools, patios, grilling areas, gazebo or pavilion, fountains, site lighting, etc.
- Pavement, driveways, parking lots, sidewalks
- Exterior of all building on site including ramps, stairs, balconies, decks, porches, fire escape structures, roof assemblies, doors, windows, fascia, soffit, other flashing details, gutters or other roof drainage systems, etc.
- Photos of each side of the building are required.
- Accessory structures: carports, garage buildings, storage buildings, maintenance shops
- In addition, where available, include photos that illustrate the construction of the structures, such as: foundation walls, floor joints, columns, beams, floor/roof slabs, and any other structural elements that can be inspected.

2. Mechanical, Electrical, Vertical Transportation, Life Safety / Fire Protection – see below for comments on recommended repairs:

- Mechanical equipment, including HVAC and water supply equipment as well as water heating equipment.
- Electrical panels, including main service panels and unit level panels, transformers, generators, evidence of electrical wire material, any devices used with Aluminum wiring
- Life Safety / Fire Protection, such as: smoke detectors, carbon monoxide alarms, sprinkler heads, exit signs, fire alarms, fire alarm panels, fire hose, fire extinguishers, hardware on egress doors, emergency call elements (pull cords, central notification panel, light outside unit door), etc.
- Vertical Transportations, including elevators (interior cab, and controls, and equipment room)
- Photos of any exposed plumbing materials.

3. Interior Common Areas and Resident Units:

- Group and include photos of all typical interior common spaces, such as community rooms, dining areas, maintenance areas, hallways, business offices, restrooms, bathrooms, shower rooms, game rooms, kitchens, fitness rooms, theatre rooms, etc.
- Include photos of the commercial kitchen to include photos of all major cooking, food preparation, and refrigeration equipment.
- If the property features common spaces that are unique, include photos of each unique common space.
- Photos of each type of dwelling unit, to include:
 - Photo of unit entrance door, including unit number (excluding resident's name)
 - Photos of every room within that unit, including restroom, bathroom, kitchenette, patio or balcony area, walk-in closets, mechanical closets, etc.
 - Photos shall include 1-2 examples of each unit type in the facility (e.g., studio, one-bedroom, semi-private, ward, etc.).
 - Photos shall include, if necessary, 1-2 examples of units which differ significantly in condition (i.e. specific units updated versus original condition, if present at property)

4. Required Repairs:

- Take photographs of any known issues/deficiencies at the property.
- Photographs should clearly depict the nature and scope of any required or proposed repairs.
- To the extent possible, photographs shall include a contextual photograph, a mid-range photograph, and a close-up photograph of any measurements taken.

Environmental Site Assessment Photos:

1. Site boundaries:

- North Boundary
- East Boundary
- South Boundary
- West Boundary

2. Adjoining properties:

- Photos of what is adjacent to the subject property to the north, south, east and west
- Adjacent sites listed on leaking underground storage tanks (LUST) or similar databases – look for monitoring wells along the boundary of the subject property that adjoins any adjacent LUST as well as on sidewalks and streets that separate any LUST site from the subject property.

3. Exterior (from all directions):

- Transformers (pole/pad):
 - All leaking transformers should be marked on a field map/site plan, making note of the location of impacted transformers: e.g. leaking transformer located immediately northeast of Building #2...or... between Buildings #3 and #4).
 - Obtain multiple photos from different angles and ranges of each transformer observed to be leaking.
 - If soil is impacted, use your finger to determine the depth of surficial staining – obtain a photo. (Most of the time, the depth of staining will not exceed more than 2-3 inches.)
 - Take photos of transformer that depict significant sinkage.
- Solid waste disposal area, including grease disposal dumpster, trap, below ground interceptors, 55-gallon drums and medical waste area (exterior storage sheds/ancillary buildings)
- HVAC systems
- Wells/cisterns (potable wells, monitoring wells, irrigation wells, dry wells)
- Stormwater ponds, wetland areas, water features
- Septic systems, oil/water separator (discharge point of separator / location of manhole / pipe run), municipal pump stations (if onsite)
- Onsite wastewater treatment systems or remnants of former systems (e.g. may be present on facilities located in rural areas that were constructed prior to the 1980's)
- Emergency generator and associated fuel tank (including additional day tanks). Photo should show distance from tank to nearest building. Photo should show surrounding views from tank (N-S-E-W). Note any evidence of overfills or spills around fill port and base of generator unit.
- Aboveground storage tanks (excluding generator tanks) – containment area, piping run (above/belowground), lock on fill port, staining on tank, beneath or surrounding tank (note type of surface the tank is stored on (ex. bare ground, concrete etc.)
- Existing underground storage tank areas, including vent pipe(s) and fill ports
- Former underground storage tank areas (former tank basins/former excavations). Photos of vent pipes or fill ports that were not abandoned/removed during closure activities.
- Stressed vegetation/stained soil/pavement and/or surface water with discoloration, odor, sheen (try to determine extent of soil staining and take photos)

4. Interior (common areas, hallways, tenant spaces, ceilings, windows, stains):
- Interior HVAC systems (PTAC units) along with boiler and hot water heaters
 - Hydraulic lifts, elevators (interior and equipment room), in-ground (former/existing) hydraulic lifts (historical operations as auto repair/service shops)
 - Floor drains, sumps, cisterns
 - Chemical storage area/maintenance area; **All areas in which hazardous substances are used, stored, handled, treated, generated or disposed, including bio wastes and oxygen storage**
 - Visible areas of suspect mold (microbial) growth (inspect under kitchen and bathroom sinks)
 - Building materials:
 - Ceiling (popcorn ceiling/ceiling panels/tiles), good condition and areas of damage
 - Flooring materials (floor tile, vinyl flooring, stair tread, cove molding), good condition and areas of damage
 - Wall systems (wallboard/joint compound, plaster), good condition and areas of damage
 - Pipe insulation (typically in boiler room/mechanical areas), good condition and areas of damage
 - Windows/sealants
 - **Any damaged building material**
 - Old underground storage tank systems – remnants of piping / areas of abandoned piping in basements/boiler rooms of old buildings/petroleum staining on walls/old petrometers
 - Laundry equipment