

Request for Waiver of Housing Directive

**U.S. Department of Housing
and Urban Development**
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0029
(Expires 04/30/2020)

1. Field Office	2. Program and DAS (e.g., multifamily development)
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3. Waiver Requested by (person, entity, HUD employee)

4. Waiver Item (directive number, date, page, paragraph, etc.)

Relief Sought

5. Did a check of SharePoint indicate Prior Approval of a factually similar waiver?	<input type="checkbox"/> Yes (skip No. 6) <input type="checkbox"/> No (go to No. 6)	If previously approved, give Counsel's name and date of approval.
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6. Counsel Determination. The Waiver Proposal **does not conflict** **conflicts** with statutory or regulatory provisions (cite rule or provision)

Counsel (signature)

Date

7. Employee Justification (attach additional pages if necessary)

Field Office Concurrence

Name	Title	Date
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8. <input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	Housing Director (signature)	Date
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Comments

Public reporting burden for this collection of information is estimated to average xx minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Distribution: (includes waivers granted and denied)

Original to Field Office;

One copy to each of the following:

Director, Organizational Policy, Planning and Analysis Division, Room 9116, HUD Headquarters, HRO
 Assistant General Counsel, Multifamily Mortgage Division, HUD Headquarters, Room 9230, CAHAA

And one copy to either of the following:

Office of the Deputy Assistant Secretary for Single Family Housing, Room 9282, HUD Headquarters, HU
 Office of the Deputy Assistant Secretary for Multifamily Housing, Room 6106, HUD Headquarters, HT

**Partial Waiver of Single Family Housing Policy Handbook, 4000.1,
Section II.C.2.c.vii Condominium Project Approval – Insurance Coverage; Section
II.A.8.p.ii(F) Requirements for Units in Approved Condominium Projects –
Insurance; and
Section II.A.8.p.iii(D)(7) Single-Unit Approval – Insurance**

Pursuant to requirements associated with the Department of Housing and Urban Development’s (HUD) authority under the single-family mortgage insurance provisions of the National Housing Act to insure one-family units in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project (24 CFR Parts 203). The regulations for Condominium Project Approval are codified in 24 CFR 203, 206 and 234 and detail the parameters regarding the types of Condominium Projects that are eligible for approval by the HUD. I hereby partially waive the requirements of Single Family Housing Policy Handbook, 4000.1, Section II.C.2.c.vii Condominium Project Approval – Insurance Coverage; Section II.A.8.p.ii(F) Requirements for Units in Approved Condominium Projects -Insurance and Section II.A.8.p.iii(D)(7) Single-Unit Approval – Insurance (hereinafter the “SF Handbook”), as provided in more detail below. This partial waiver is limited to Manufactured Housing, Detached and Common Interest Condominium Projects and Units that are unable to satisfy the current insurance requirements and do not meet the definition of a Site Condominium.

1. The project must be:
 - a. a Manufactured Housing Condominium Project (MHCP) where the ownership structure is subject to a condominium regime;
 - b. a Detached Condominium Housing Project (DCHP) where the ownership structure is subject to a condominium regime in which the individual detached single family dwelling, garage and onsite improvements are owned and maintained by the homeowner. These projects would otherwise qualify as a Site Condominium; however, the ground beneath the residential improvements is owned by the Condominium Association or Homeowners Association (HOA) or is under a long term leasehold interest and considered common area or limited common area; or
 - c. a Common Interest Housing Development (CIHD), defined as a planned residential community that may consist of Units within a two to four unit building and/or contain multiple housing types, structured with different ownership interests, managed by a common Condominium Association or Homeowners Association (HOA), and governed under one Declaration of Covenants, Conditions and Restrictions (CC&Rs).

2. The partial waiver is limited to one of the identified Condominium Project types that cannot meet the insurance requirements in SF Handbook, Section II.C.2.c.vii Condominium Project Approval – Insurance Coverage; Section II.A.8.p.ii(F) Requirements for Units in Approved Condominium Projects – Insurance and

Section II.A.8.p.iii(D)(7) Single-Unit Approval – Insurance, which requires the Condominium Project to be insured to Federal Housing Administration (FHA) standards as well as any applicable state and local condominium requirements. Under these SF Handbook sections, the Condominium Project must maintain Hazard, Liability, and Flood insurance and the Borrower must obtain a Walls-In policy (HO-6) if the master or blanket policy does not include interior Unit coverage including replacement of interior improvements and betterment coverage to insure improvements that the Borrower may have made to the Unit. The insurance policies must list the Condominium Association or HOA as the named insured, or in the case of an affiliated Condominium Project or Condominium Association, the name of the affiliated Condominium Project or Condominium Association may be listed as a named insured.

In support of the partial waiver, I make the following Findings and Determinations.

FINDINGS

1. FHA's current insurance requirement is that a Condominium Association or HOA maintain master or blanket Hazard Insurance and Liability Insurance for the replacement cost of the entire project, may not be practical when applied to DCHPs. The risk to the FHA insurance fund associated with the property insurance coverage for DCHPs is no greater than a typical single family home within a subdivision or Site Condominium. Furthermore, FHA approved lenders are required to: 1) verify the property used as collateral for an FHA insured mortgage has sufficient insurance coverage prior to closing a loan to be insured by FHA; 2) escrow property insurance premiums; and 3) provide a general certification as part of the firm commitment (form HUD-92900A) that the loan meets all of HUD's property and borrower eligibility requirements.
2. The DCHP project CC&Rs define the specific responsibilities of the Unit owners and the Condominium Association or HOA. Provisions contained within the CC&Rs of DCHPs typically require the owners of detached single family homes within the project to maintain and carry all applicable property insurance coverage for the dwelling, site area and any personal property contained therein. The Condominium Association or HOA maintains and carries master or blanket Hazard, Flood, and Liability insurance only for structures/improvements that are considered common areas of the project. The common areas typically will encompass amenities outside the footprint of the individual site such as entry gates, streets, lighting, pools, or club houses.
3. FHA recognizes there is a decreasing supply of affordable housing, and that Condominium Projects are a substantial contributor to the pool of affordable housing stock. With a diminishing supply of readily available land and rising construction costs, DCHPs have been developed to maximize land use, offer attractive amenities, are designed to appeal to a diverse group of purchasers, and typically include affordable housing opportunities for first time homeowners and seniors. DCHP housing projects offer the same property characteristics as single family subdivision properties, without the direct responsibilities associated with the cost and maintenance of comparable amenities offered in a single family subdivision.
4. FHA's current insurance requirement for the Condominium Association or HOA to maintain master or blanket Hazard and Liability Insurance for the replacement

cost of the entire project, may not be practical when applied to CIHD detached single family component. The risk to the FHA insurance fund associated with the property insurance coverage for the detached single family component within these projects is no greater than a typical subdivision of single family homes or Site Condominiums. Furthermore, FHA approved lenders are required to: 1) verify the property used as collateral for an FHA insured mortgage has sufficient insurance coverage prior to closing a loan to be insured by FHA; 2) escrow property insurance premiums; and 3) provide a general certification as part of the firm commitment (form HUD-92900A) that the loan meets all of HUD's property and borrower eligibility requirements.

5. CIHD projects are typically developed as planned residential communities due to a growing scarcity of land for suburban development. These projects allow for increased density, create a neighborhood with a certain architectural character, offer an affordable housing component and provide a variety of housing choices. The different housing types are typically built in clusters around green or open areas that are maintained by the association to create a diverse development. The CIHDs may include, attached and detached condominiums, planned unit developments and single family homes all of which share a variety of common amenities and services.
6. The CIHD project CC&Rs define the specific responsibilities of the Unit owners and the Condominium Association or HOA. Provisions contained within the CC&Rs of CIHD's typically address separate cost centers attributable to the different housing types for allocation of common area expenses. The owners of the detached single family homes, Site Condominiums, or duplex units within the project may be required to maintain and carry property insurance for the dwelling, site area and any personal property contained therein. The HOA maintains and carries master/blanket Hazard, Flood, and Liability insurance for the structures that contain the attached units and the common areas of the project. The common areas typically will encompass amenities outside the footprint of the individual site such as entry gates, streets, lighting, green belts, pools, or club houses.
7. FHA recognizes there is a decreasing supply of affordable housing, and that Condominium Projects are a substantial contributor to the pool of affordable housing stock. The diminishing supply in part is attributed to a decline of readily available land and rising construction costs. As such, CIHD housing projects are growing in appeal with the development of new residential communities that maximize land use, create sustainable housing communities, offer attractive amenities, utilize energy efficient technology, are located near transportation corridors, and provide a variety of housing choices to a diverse group of purchasers including affordable housing opportunities for first time homeowners and seniors.
8. A partial waiver is necessary to allow for the individual unit owners to obtain and maintain individual Hazard, Liability, Flood, and other insurances required by state or local condominium laws or FHA requirements so that affordable housing opportunities are available to FHA qualified buyers.
9. Without the partial waiver, MHCPs, DCHPs, and CIHDs Condominium Projects are ineligible for initial FHA Condominium Project Approval or Recertification and the ineligibility substantially reduces the available affordable housing stock.
10. The risk to the Mutual Mortgage Insurance fund associated with the property insurance coverage in financing an individual Unit within these projects is not greater than a unit within a subdivision, planned unit development or single family home.

DETERMINATIONS

1. To assist in ensuring the continued availability of affordable housing, HUD will allow the individual unit owner to obtain and maintain their own insurance coverage, so a partial waiver of the current condominium insurance requirements for the Condominium Association or HOA to maintain Hazard, Liability, and Flood insurance covering the entire Condominium Project, including the individual Units in the Condominium Project must be granted for MHCP, DCHP and CIHD projects.
2. The granting of the partial waiver is consistent with the Department's objectives to expand homeownership for responsible borrowers, while providing appropriate safeguards to waive the insurance requirements defined in SF Handbook, Section II.C.2.c.vii Insurance Coverage; Section II.A.8.p.ii(F) Requirements for Units in Approved Condominium Projects – Insurance and Section II.A.8.p.iii(D)(7) Single-Unit Approval – Insurance.
3. All other guidance concerning Condominium Project approval in SF Handbook, Section II.C Condominium Project Approval; Section II.A.8.p.ii(F) Requirements for Units in Approved Condominium Projects – Insurance and Section II.A.8.p.iii(D)(7) Single-Unit Approval – Insurance remains unchanged.
4. The above findings constitute good cause for the granting the partial waiver.
5. The partial waiver does not violate any statutory requirements.
6. This partial waiver shall be in effect for one year from the date of the Waiver of Housing.
7. Directive is executed.