

CHAPTER 1.

SECTION 1. ADMINISTRATION

- *1-1. ASSIGNMENT OF FUNCTION. Complaints are received and resolved by the Office of the Director, Housing Division in an Area Office or by the Office of the Supervisor in a Service Office.
- a. An individual in the office of responsibility is designated Complaint Officer. The Complaint Officer must possess a demonstrated ability to perform the duties in a sympathetic but firm manner and to provide fair and impartial decisions based on supported facts.
 - b. The Single Family Architectural and Engineering Branch shall provide technical assistance in complaint matters to the Complaint Officer upon request. *
 - c. The individual designated as Complaint Officer shall not be Chief of a Technical Section.
- 1-2. RELATIONSHIP WITH HOMEOWNER. In order to provide for orderly processing of a complaint, it must be in written form. The complaint may be by letter with an itemized list of defects, or on Form HUD-92556, Construction Complaint (Figure 1-A). If the complaint is taken by phone, Form HUD 92556 shall be filled in for the homeowner.
- a. Complaints received from groups, or verbally, shall be reduced to writing on an individual basis. It may be necessary for the Complaint Officer to assist the homeowner(s) in preparing individual written complaint(s). At no time shall any homeowner or group of homeowners be refused a courteous hearing and all needed assistance in registering complaints. Visiting the owner in the home may be necessary. *
 - b. If the owner requests permission to examine the drawings and specifications, approved change orders and inspection reports pertaining to the property, these exhibits shall be made available for review and/or copying. Technical assistance to review and interpret these exhibits and to explain HUD-FHA requirements shall be made available. Under no circumstances may the exhibits be removed from the office. Copies may be made at the homeowner's expense. *
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- *1-3. FILES AND RECORDS. A Form HUD-92557, Construction Complaint Case History Card (Figure 1-B), and correspondence folder shall be initiated for each individual complaint case

received. Case History Cards are to be filed alphabetically by the last name of the builder for proposed construction complaints. For existing construction complaints, they shall be filed alphabetically by the last name of the homeowner. Correspondence folders are to be identified by the homeowner's name and the FHA case numbers and are filed alphabetically by the last name of the complainant. The files are to be segregated into those which are Closed and those which are Active.

The Case History Cards which make up the active segment of the file will be flagged or otherwise organized to permit positive prompt follow-up upon the arrival of established suspense dates.

- a. A chronological history of every action of the complaint, from date of receipt to the date of final disposition, will be entered on the Case History Card. All entries shall be supported by data contained in the individual case correspondence folder.
 - b. Enter a brief statement on the Case History Card regarding the nature of each action and its date, i.e., "Referred to Area Manager", "Inspection Appointment Made* with Homeowner", "Inspection Made", "Builder Requested to Correct", "Mortgagor Notified", or other such appropriate entries. These entries may be made with ink.
- 1-4. PERIODIC REVIEW OF BUILDER'S FILE. At not less than six-month intervals, the Case History Cards filed by builder's name will be reviewed for the purpose of evaluating the performance of builders whose previous construction has been the subject of registered, justifiable complaints concerning workmanship, materials, or land improvement. On the basis of such review, as well as the performance of the builder in making corrections on a particular case or group of cases, the Field Office will formulate any courses of action to be imposed upon particular builders to induce corrective action and will notify VA accordingly.

The Housing Division Director/Supervisor also reviews the Case History Cards while making a periodic check of the Builder's Workmanship Adjustment. *

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SECTION 2. PROPOSED CONSTRUCTION COMPLAINTS

- *1-5. RECEIPT OF COMPLAINT. A homeowner who informs the office of a complaint shall be told that HUD-FHA will attempt to resolve the complaint to the extent of its authority after the builder has first been given the opportunity of resolving the matter.
- a. The homeowner shall be asked to notify the builder in

writing of the complaint in accordance with the terms of the Warranty, if this has not already been done, and to allow two weeks for a response to the complaint. The homeowner shall be told that if a satisfactory response is not received in such time, HUD-FHA will assist in resolving the matter. The office must follow-up on all complaints.

- b. If the homeowner has already written to the builder and received unsatisfactory response, they should not be referred back to the builder. The homeowner may be requested to furnish copies of any correspondence with the builder.

1-6. INITIAL REVIEW. Upon receiving a complaint, the Complaint Officer shall:

- a. Review written submission for completeness. (See Paragraph 1-5.)
- b. Prepare acknowledgement or request for further necessary information (Figure 1C or 1D). Additional information can be requested and received by telephone to expedite complaint servicing.
- c. Initiate Form HUD-92557 Case History Card (Figure 1B), and a correspondence folder.
- d. Determine whether or not mortgage insurance under one of the HUD-FHA programs is in effect. In the event HUD-FHA is not involved either directly or indirectly, notify the homeowner of this by letter and, if possible and appropriate, refer the incoming correspondence to those who may be able to provide assistance such as the Veterans Administration or Farmers Home Administration.
- e. Initiate request for the insured case file and other necessary information. It will be necessary to have the drawings, Description of Materials and construction * compliance inspection reports (Insured Case Backup File), if a technical review is required.

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- * f. Notify builder of complaint items. The notice (Figure 1E) will allow 15 days for reply. *
 - * g. If an attorney writes to HUD on behalf of a homeowner, a copy of the correspondence sent to the owner shall be sent to the attorney.

NOTE: All complaints requiring a reply by the Assistant Secretary for Housing-Federal Housing Commissioner, or the Secretary of HUD, shall be given priority in all complaint processing stages to meet the due dates.

In the initial stage, the matter may be referred by the Complaint Officer to the Single Family Architectural and Engineering Branch for technical review without waiting for the builder's reply.

Where the complaint is eligible for HUD assistance and the defect is of a nature to make the dwelling uninhabitable, normal procedures may be abbreviated to permit immediate repairs.

- 1-7. FOLLOW-UP. It is essential for expeditious complaint servicing to assure positive, prompt follow-up on the established suspense date.
- a. If no answer to the original complaint notice to the builder is received in 15 days, a follow-up letter (Figure 1F) is sent. The letter is a warning notice and allows the builder an additional 15 days to reply.
 - b. When the builder does not reply to the second notice by the stated due date, 30 days from the date of the first letter, an Order of Temporary Denial of Participation shall be issued to the builder. (See Figure 1G and Paragraph 1-15.) If there is any evidence in the construction complaint file that all or part of the complaint items may be eligible for financial assistance under Section 518(a), for those items follow instructions in Paragraph 1-15b.
 - c. This order shall not be rescinded until the builder satisfactorily completes all necessary repair work or reimburses HUD for funds expended to repair, or 12 months have elapsed.
- 1-8. RECEIPT OF BUILDER'S REPLY. When the builder notifies the Field Office that corrective action has been taken, the homeowner is notified by letter (Figure 1H). Reword second sentence of the third paragraph as follows: *

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The case is "closed" unless the homeowner notifies the field office that corrective action has not been taken (See Paragraph 1-12 and the following):

- * a. If the builder notifies the Field Office that corrective action will be taken, the homeowner is notified by letter (Figure 1H). The builder shall state the date by which necessary repairs will be completed.
- b. If the builder does not notify the Field Office of completion of corrective actions by the date established, a follow-up letter (Figure 1-0) allowing

15 days for a written reply is sent to the builder.

- c. In no case shall excessive time be allowed for the correction of complaints. If the corrective action is not or cannot be accomplished within 45 days after the receipt of the builder's initial reply, an Order of Temporary Denial of Participation shall be issued to the builder. (See Figure 1-0) and paragraph 1-12c.
- d. If there is any evidence in the construction complaint file that all or part of the complaint items may be eligible for financial assistance under Section 518(a), for those items follow instructions in Paragraph 1-12b. *

1-9. TECHNICAL REVIEW. Those complaints which cannot be resolved by the Complaint Officer shall be forwarded to the Architectural and Engineering Branch for necessary action. *
Such complaints would include but are not limited to: Builder disclaims any or partial responsibility for items of complaint; homeowner is dissatisfied with corrective action; and Congressional inquiries.

- * a. The resolution of a construction complaint may be a difficult matter. The Chief Architect should review cases presenting potentially difficult aspects and shall append a note to the case documents to identify any special or unusual comments or instructions he deems necessary, when assigning the case for inspection. *
- b. The Chief Architect shall assign each complaint case to an inspector qualified to handle it judiciously.
- c. The complaint offices should determine how many complaints, and their nature, which have been filed against the particular builder. This information should influence the sanctions imposed against the builder.

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1-10. COMPLAINT INSPECTION. The inspector shall make the inspection as soon as possible. An appointment shall be arranged with the homeowner. It is essential that the homeowner know that an inspector will be visiting the property. It is desirable to have the homeowner or owner's representative present during inspection but mandatory only if the inspector must enter the house. If a complaint inspection involves exterior items, the inspection may be made without the homeowner being present but not without their knowledge that the inspection is scheduled. When an appointment is made to inspect the property, an entry is made on Form HUD 92557, Construction Complaint Case History Card, to document this fact. *

- a. There is no objection to the builder being present

* during inspections. The builder shall be notified in advance of the time of inspection and invited to be present. However, it is not required that the builder be present. If the homeowner objects to the builder's presence, the builder shall not be invited. Add the following sentence to Form HUD 92557 under Other Actions or Details:

If no one is home on the date set for an interior inspection, the homeowner shall be sent a form letter unless other arrangements for inspection can be made expeditiously by telephone.

* b. The inspector should be careful not to make personal judgments as to responsibility to the homeowner or builder. The inspector shall be courteous to all parties regardless of provocation. The inspector shall answer any questions and provide technical explanations within the scope of his personal knowledge and authority, but shall not commit the Field Office to specific actions. If a homeowner or a homeowner's representative is belligerent, provocative or emotional, the inspector shall courteously refrain from discussion of his observations, shall request that the homeowner submit to the HUD Complaints Officer in writing any additional information or comments the homeowner desires that HUD consider, and shall note on the inspection report the attitudinal problem encountered. The inspector's function is to help homeowners whenever help is justifiable, not to be the recipient of abuse or insults. *

* c. The inspector should try to avoid considering or discussing nonrelated verbal complaints at this time, and should inform the homeowner to submit any additional complaints in writing to the builder. The inspector should explain that this is required under the warranty. The inspector may wish to look at additional items to avoid additional inspection trips. Such additional items are to be reported separately and will not be considered unless a subsequent complaint is received.

d. Each item of complaint shall be covered on Form HUD-92051, Compliance Inspection Report, or by memorandum. Determination as to builder responsibility, owner maintenance, or "no determination possible" shall be made. A clear, concise, technical explanation for the conclusion on each item shall be included. It shall be stated if the complaint is due to a noncompliance with drawings, Description of Materials, or Minimum Property Standards, or a deficiency caused by faulty material, construction, or workmanship.

- e. The Chief Architect shall review the inspector's report for completeness, comparing it with the homeowner's complaint to assure that every item of complaint has been evaluated, that reported findings are technically accurate, that there are no inconsistencies with prior inspection reports, and that any additional items or concerns reflects in post-inspection correspondence from the homeowner have been addressed, before submitting the report to the Complaint Officer. If the review indicates any omission or technical inaccuracy, the file shall be returned to the inspector for such further action as may be necessary.

1-11. FINAL DETERMINATION BY COMPLAINT OFFICER. After review of the file, including any inspection report, the Complaint Officer shall place the complaint in one of three categories for further handling.

- Category 1. That none of the items of complaint are justifiable.
- Category 2. That some items of complaint are justifiable and the builder's responsibility. Responsibility for other items cannot be determined or items are a maintenance responsibility of the homeowner.
- Category 3. That the entire complaint is justifiable and that the corrective action is the responsibility of the builder. *

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 - a. Complaints in Category 1 only may be closed by sending a letter to the mortgagor advising that HUD has evaluated the complaint and does not find it the responsibility of the builder to correct the item(s). The basis for the determination, for each item of complaint, shall be provided the mortgagor in the letter. Form letter (Figure 2C) shall be used for this purpose. Similar notice shall also be given to the builder.
 - b. Complaints in Categories 2 or 3 are considered justifiable either in part or in whole. The Complaint Officer shall initiate appropriate requests for correction of the items to the builder and implement such follow-up procedure as is necessary to assure timely corrective actions. Form letter (Figure 1-J) may be used for this purpose. If a reply is not received within 10 days, follow-up letter (Figure 1-K) shall be sent. The above letters shall be completed to reflect the particular conditions. Appropriate copies of all such correspondence are to be provided to the

homeowner to keep the homeowner informed of the actions being taken to provide assistance. Duplicate copies should be sent any mortgagor known to be represented by counsel. Form letter (Figure 1-M) shall be used in transmitting copies to the homeowner and may be modified to the extent necessary to reflect special local conditions. The letter will include a list of any homeowner complaint items determined not to be the builder's responsibility to correct, and the reasons for each such determination.

- 1-12. BUILDER'S FAILURE TO RESPOND OR TAKE CORRECTIVE ACTIONS. When a builder (or other person responsible for correction of a defect) fails to respond within ten days to the second request to make repairs, the Area Office Manager shall issue an Order of Temporary Denial of Participation to the builder (Figure 1-L). When a builder (or other person responsible for correction of a defect) fails to complete corrective actions within 45 days following HUD's second request that repairs be made, and the delay is occasioned by other than weather or special timing sequences dictated by the nature of the repairs, the Area Office Manager shall issue an Order of Temporary Denial of Participation to the builder (Figure 1-L). In either instance, the order shall remain in effect until the builder satisfactorily responds to a request for repairs or reimburses HUD for expenditures made to repair a property, or 12 months have * elapsed.
- a. After notifying the builder, a letter shall be sent to the complainant to explain HUD-FHA's position (Figure 1N).

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- *(1-12) b. If there is any evidence in the construction complaint file that all or part of the complaint items may be eligible for financial assistance under Section 518(a), the modified format for letter (Figure 1N) shall be used to advise the homeowner that a claim for assistance with major structural defects will be accepted specifically for the major structural defect item(s). Evidence of potential Section 518(a) eligibility may be deduced from an inspector's finding or recommendation, from homeowner's opinion that such a defect exists, or from a homeowner's description of defects that might come within the definition of major structural defects in Section 2-3.
- c. An Order of Temporary Denial of Participation must comply with the requirements found in 24 CFR Part 24, Subpart B. The relevant provisions of these regulations are summarized below:
- (1) The order shall be for a temporary period

pending a satisfactory response from a builder concerning a request to make repairs or to reimburse HUD for expenditures made to repair a property.

- (2) The restrictions imposed by the order shall not extend beyond the jurisdiction of the Area Office Manager and shall be limited to the program under which the offense occurred.
- (3) Written notification of the order shall be sent to the builder by certified or registered mail, return receipt requested (Figure 1L).
- (4) The notice shall clearly state the grounds as well as the regulatory basis for the Order, and the Order shall be effective on the date of the notice.
- (5) The temporary nature of the order shall be explained in the notice.
- (6) The notice shall also explain the impact of the order on the builder's participation in Departmental programs and shall specify the geographical area affected by the order.
- (7) The notice shall advise the builder that a written request for an informal hearing may be made to the Area Office Manager. The request must be received within 20 days of the notice from the Area Office Manager. *

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- * (8) The notice shall advise the builder that the order will remain in effect during any appeal process.

d. Informal hearings shall be conducted in accordance with the following instructions.

- (1) Upon receipt of a request for an informal hearing, the Area Office Manager shall promptly communicate with the builder to arrange a hearing (Figure 1P). The date for the hearing shall be set within 30 days of receiving a timely request.
- (2) The builder may be represented by counsel who may present all relevant materials to the hearing official.
- (3) Formal rules of evidence and procedure will not apply.

- (4) A transcript of testimony should not be made, but the Area Office Manager should prepare and retain a summary of all information presented. This summary should contain a sufficient detail to justify any action taken by the Area Office Manager. If a person requests that the hearing be transcribed, he/she shall pay the cost.
- (5) The Area Office Manager shall send written notice to the builder of a decision to withdraw, modify or affirm the order (See Figure 10 for sample letter affirming the order).
- (6) If the order is affirmed, (see Figure 1-Q) the builder may appeal that decision to the Assistant Secretary for Housing in accordance with the provisions of 24 CFR 24.7(b).

1-13. HOMEOWNER APPEALS. The right to appeal an unfavorable or adverse decision on a construction complaint is available to the homeowner. This appeal process is not to be equated with the procedure by which an informal hearing is made available after an Order of Temporary Denial of Participation is imposed against a builder. A homeowner appeal may be a request for further review based upon new or additional information, or it may be a request for review without submission of new or additional information. Appeals may be submitted to the Area Office Manager/Service Office Supervisor or to the Director, Office of Regional Housing. The following procedures are applicable: *

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- * a. Area Office Manager/Service Office Supervisor: Upon receipt of an appeal, or a request for further consideration, the complaint file shall be reopened and reviewed in its entirety, including a property inspection by the Architectural and Engineering Staff. If the request was received directly from either party to the complaint, the Area Office Manager/Service Office Supervisor shall resolve the matter and the Complaint Officer shall prepare and send any required letters to the parties of the complaint.
- b. Director, Office of Regional Housing: Upon receipt of an appeal or a request for further consideration, the Director shall send an interim acknowledgement to the complainant. The correspondence shall be immediately referred to the Field Office having jurisdiction for further review and examination and a complete report. The Area Office Manager/Service Office Supervisor's recommendation for disposition and the complaint file shall be forwarded to

the Region for final decision and reply to the complainant. The complaint file will be returned to the Field Office for any additional actions needed to close out the file. *

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SECTION 3. COOPERATION WITH THE VETERANS ADMINISTRATION

1-14. GENERAL.

- a. HUD/FHA may issue a high-ratio commitment on properties completed less than one year if the properties were submitted to the Veterans Administration for guaranty, insurance or direct loan prior to beginning construction and compliance inspections during construction were made by VA. Likewise, maximum VA benefits are available on properties approved for mortgage insurance prior to beginning of construction and inspected during construction by HUD-FHA. This same type of cooperation continues into the field of construction complaints.
- b. HUD/FHA will accept primary responsibility for HUD/FHA inspections. VA will accept primary responsibility for VA inspections. This procedure will be followed regardless of the fact that the other agency may have made supplemental inspections.

1-15. HUD-FHA INSURED PROPERTY INSPECTED BY VA. When initial review of a construction complaint (Paragraph 1-9) shows that compliance inspections were made by VA and construction was acceptably completed under VA inspections, the homeowner's complaint shall be referred to that agency for disposition. The homeowner shall be advised of the referral and the complaint shall remain open. When VA has completed its action regarding the complaint, it will make a written report to the Area Office Manager/Service Office Supervisor that the complaint has been satisfied or that the builder refuses or has failed to satisfactorily correct the defect(s) although deemed the builder's responsibility.

- a. If the case has been resolved or referred to VA, HUD/FHA will close the matter.
- b. If VA has concluded that certain construction defect(s) are the responsibility of the builder who failed or refused to correct them, the Area Office Manager should determine whether an Order of Temporary Denial of Participation should be issued to the builder. (Note: VA has no authority to initiate restrictive action against a builder unless the property is security for a VA loan). This

determination should be based upon documentation from VA or upon an inspection made by a HUD/FHA staff member, which supports the VA conclusion that the builder failed or refused to correct the defects. These documents must contain sufficient data to support the Department's administrative action in an appeal hearing if one is requested by a builder.

- c. If the VA reports that the complaint is not the builder's responsibility, the homeowner will be notified and the case will be closed.
 - * d. The Area Office Manager/Service Office Supervisor may act on the report made by VA, or request (1) that an inspection be made by a HUD-FHA staff member, or (2) request a joint inspection with FHA-VA representatives. The VA should be advised of actions taken.
 - e. To assist the HUD-FHA purchaser in cases involving VA inspections, the local VA office may request that a HUD-FHA representative accompany the VA representative to inspect the property. Such request shall be accepted. The HUD-FHA and VA representatives shall inspect the property together and jointly agree as to recommendations for corrections, then forward it to the Complaint Officer for his review.
 - f. The Complaint Officer shall hold the report in abeyance for notification by VA that the complaint has been remedied. If the complaint is remedied, the HUD-FHA complaint shall be closed out. If the complaint is not remedied, an Order of Temporary Denial of Participation shall be issued to the builder. See Paragraph 1-12c.
 - g. If agreement cannot be reached locally as to items of builder responsibility or if there is any disagreement between HUD-FHA and VA about restriction of the builder, the entire file, together with the Area Office Manager's recommendations, shall be forwarded to the Regional Director for Housing for review. No action shall be taken on the complaint pending instructions from the Regional Director. *
- 1-16. VA GUARANTEED PROPERTY INSPECTED BY HUD-FHA. If a construction complaint received by VA is referred to HUD-FHA as the agency having primary responsibility for servicing the complaint, it shall be received and handled as an initial complaint by HUD-FHA. The procedure contained in Paragraphs 1-8 through 1-16 is applicable.
- a. If correction of justified complaints cannot be accomplished, the VA field office referring the

complaint shall be so notified.

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- b. A VA guaranteed property is not eligible for financial assistance under Section 518(a), even though inspection during construction was made by HUD. Veterans Administration legislation similar to Section 518(a) is provided in Section 1827 of Title 38 of U.S. Code.

1-17. CONTINUING RELATIONSHIPS WITH VA. In some instances, it may be necessary for both HUD-FHA and the VA to determine the conditions upon which the other predicated its commitment to insure or issued its Certificate of Reasonable Value. HUD/FHA will afford representatives of the VA the opportunity to examine drawings and specifications on file where such examination is related to VA operations. Similar courtesy will be extended by the VA.

- a. Field Offices will provide the manager of the Regional Office of the VA with copies of the notification letters identified as Figure 1J and 1L containing the name of the builder who has failed to correct construction deficiencies, as well as copies of any subsequent letters which have the effect of withdrawing such notification.
- b. When VA notifies HUD-FHA that it is refusing to do business with a builder due to a failure to correct a justifiable complaint, the Area Office Manager shall refer the matter to the Assistant Secretary for Housing with a recommendation that debarment proceedings pursuant to 24 CFR 24.6(a), be initiated against the builder. *

CHAPTER 1, FIGURE 1-C

(Letter of Acknowledgement to Mortgagor)

Dear _____:

I am replying to your letter dated _____ concerning the problem(s) you are experiencing with your home.

To assure that your case is given every possible consideration, it is essential that we consider all information which relates to your case.

We have communicated with the appropriate individuals and as soon as we have received and reviewed the required facts, I will write to

you.

Sincerely,

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CHAPTER 1, FIGURE 1-D

(Letter to Obtain FHA Case Number from Complainant)

Dear _____:

This is in response to your letter of _____ concerning the home you recently purchased.

To enable us to locate our file on your property, please furnish us with the FHA Case Number, which may be obtained from the lending institution to which you make your payments; or, it may be found among your papers relating to the purchase of your home.

Your early attention to this matter will be appreciated.

Sincerely,

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CHAPTER 1, FIGURE 1-E

(Letter Transmitting Mortgagor's Complaint to Builder,
Seller, Warrantor, Guarantor or Certifying Contractor)
(Modify as Necessary for Particular Addressee)
(Send copy to Complainant)

Subject: FHA Case Number
Owner
Property Address

Dear _____:

Enclosed is copy of a letter (or Form HUD-92556) received from the above owner expressing dissatisfaction with the property purchase from you.

*If you regard the complaint(s) as justified, please advise us, within 15 days and in writing, when you will have completed necessary repairs. Repairs must be completed within 60 days unless the weather or other factors make it impracticable to do so.

It is important that we hear from you on this matter within fifteen (15) days from the date of this letter whether or not you agree. *

Sincerely,

Enclosure

CHAPTER 1, FIGURE 1-F

(Follow-up on Figure 1-E Letter to Builder, Seller,
Warrantor, Guarantor or Certifying Contractor
(Modify as Necessary for Particular Addressee)
(Send copy to Complainant)

Subject: FHA Case No.
Owner
Property Address

Dear _____:

On _____, we mailed you a copy of a
construction complaint on the property identified above.

We asked for a reply by _____, which has
not been received.

Failure to respond by (15 days from date of this letter) will be
cause for imposing administrative sanctions to restrict your
participation in HUD-FHA programs.

Sincerely,

Enclosure
(Copy of First Letter - Figure 1-E)

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CHAPTER 1, FIGURE 1-G

(Letter to Builder, or Other Person Responsible for the
Defect, Who Fails to Respond to Figure 1F Request
(Modify as Necessary for Particular Addressee)
(Do Not Send Copy to Complainant)

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Subject: FHA Case No.
Property Address

Dear _____:

Our records indicate that you have not responded to my letter of
_____ regarding a construction complaint on the
property identified above.

*As a result of your failure to respond to my letter, an Order of
Temporary Denial of Participation, pursuant to 24 CFR 24.18,

effective as of the date of this letter, is imposed against you. We will decline to process any future applications wherein you are a party to the transaction. This order is limited to the jurisdiction of this office, but the order will not be removed until you respond to my letter of _____ or until 12 months has elapsed. Failure to respond could lead to more serious administrative sanctions.

If you disagree with this decision, you may obtain an informal hearing by sending a written request to me for reconsideration of this decision. The request must be received within 20 days from the date of this letter.

Sincerely,

(Area Manager or
Regional Administrator)

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CHAPTER 1, FIGURE 1-H

(Letter to Complainant - Builder, Seller, Warrantor, Guarantor
or Certifying Contractor Has or Will Make Repairs
(Include Copy of Builder, Seller, etc. Letter)
(Modify as Necessary for Particular Addressee)

Subject: FHA Case No.

Dear _____:

I know you will be pleased to learn that the builder of your home has *agreed to correct the conditions which you reported to us in your letter.

The builder has agreed to begin making the corrections on _____ and to complete the work by _____.

When the corrections have been completed, I would appreciate your writing to us again so that we can close the file on this complaint. If the builder does not adequately complete the corrective work by the date identified above, please write me explaining which items of work are incomplete or unsatisfactorily completed, so that HUD may take proper further action.

OR

I am pleased to learn that the builder of your home has corrected the conditions referred to in your recent letter. Accordingly, we are closing the file on your construction complaint. If you do not agree that your complaint has been satisfactorily resolved, please write me within 45 days from the date of this letter, explaining why you disagree, so that we may reopen your complaint file or take other

proper action.

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If I may be of further assistance, please write again.

Sincerely,

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CHAPTER 1, FIGURE 1-I

(Letter to Complainant When
Complaint Officer Determines Complaint Not
Justified - Proposed Construction)

Subject: FHA Case No.

Dear _____:

I am replying to your recent letter concerning the difficulty you are experiencing with your home.

We have determined that the property you purchased was constructed in substantial conformity with the plans, Description of Materials and HUD Minimum Property Standards and any approved changes thereto.

(Basis for Determination)

In view of the foregoing, we cannot request that repairs or corrections be made.

If you believe your complaint has not been fairly reviewed, you may request reconsideration by writing to me and presenting any facts, information or arguments not previously considered.

*You may examine and copy at your own expense all documents in our files pertaining to your home, including plans, specifications, approved change orders and inspection reports. If you wish to examine these documents, please call or write _____ at _____, telephone number _____ for an appointment to do so. Technical assistance to review and interpret these documents will be provided if the necessary staff is available. *

Sincerely,

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CHAPTER 1, FIGURE 1-J

(Letter to Builder, Seller, Warrantor, Guarantor, or
Certifying Contractor Informing Him/Her of HUD-FHA

Determination that Corrective Action is Their Responsibility)

(Copy to Complainant)

Subject: FHA Case No.
Owner
Address

Dear _____:

This office has written to you previously concerning defects in the property identified above. Inspection of the property shows that the owner's complaint is justifiable and of a nature which should be corrected by you.

Correction of the following items is determined to be your responsibility:

Please inform this office within 10 days as to the approximate dates you expect to commence and to complete the corrective work and make necessary arrangements with the homeowner for access to the property.

Sincerely,

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CHAPTER 1, FIGURE 1-K

(Follow-up Letter to Builder, Seller, Warrantor,
Guarantor or Certifying Contractor Who Fails to
Respond to Figure 1-J)

(Modify as Necessary for Particular Addressee)
(Do Not Send Copy to Homeowner)

Subject: FHA Case No.
Owner
Address

Dear _____:

This office wrote to you on _____ concerning defects in the above property which were determined to be your responsibility for correction. A copy of that letter is enclosed.

At this time, we have had no reply from you concerning this matter. Please inform this office within 10 days as to the appropriate dates you expect to commence and to complete the corrective work. It will be necessary for you to make arrangements with the homeowner for access to the property.

A failure on your part to respond to this request will be cause for imposing administrative sanctions against you in order to restrict your participation in HUD-FHA programs.

Sincerely,

Enclosure

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CHAPTER 1, FIGURE 1-L

(Letter to Builder, or Other Person Responsible for
the Defect, Who Fails to Correct Justifiable
Construction Complaints)
(Do Not Send Copy to Complainant)

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Subject: FHA Case No.
Property Address

Dear _____:

This office has communicated with you both by letter and telephone requesting that you correct defects in the property identified above. This office has found the complaint to be justified, and you have been asked to correct the following items:

(list items to be corrected)

*As a result of your failure to take corrective action, an Order of Temporary Denial of Participation, pursuant to 24 CFR 24.11(a), effective as of the date of this letter, is imposed against you. We will decline to process applications wherein you are a party to the transaction. This order is limited to the jurisdiction of this office, but the order will not be removed until all complaints on the items listed above have been satisfactorily corrected or you have reimbursed HUD for expenditures made to repair the property or 12 months have elapsed. Failure to take corrective action could lead to more serious administrative sanctions.

If you disagree with this decision, you may obtain an informal hearing by sending a written request to me for reconsideration of this decision. The request must be received within 20 days from the date of this letter. The order will remain in effect during any appeal process.

Sincerely,

Area Manager or
Regional Administrator

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CHAPTER 1, FIGURE 1-M

(Suggested Type Letter Informing Homeowner That
Complaint or Portion of Complaint is Justified)

Subject: FHA Case No.

Dear _____:

*Your attention is called to the enclosed copy of our letter to the builder of your home.

You will note that the builder has been asked to make arrangements with you to enter the property and take prompt action to correct the defects listed in Section A which have been determined to be the builder's responsibility.

Please let me know if the builder does not make these arrangements within the next 10 days.

We have determined that the builder is not responsible for the complaint items listed in Section B because the construction is in substantial compliance with the HUD Minimum Property Standards and with the plans and Description of Materials and any approved changes. HUD's basis for this determination is _____. If you believe your complaint has not been fairly reviewed, you may request reconsideration by writing to me and presenting any facts, information or agreements not previously considered.

You may look at all documents in our files about your home, including plans, specifications, approved change orders and inspection reports. If you wish to examine these documents, please call or write _____ at _____, telephone number _____ for an appointment to do so. If you wish copies made, we will charge you _____ per copy. If the necessary staff is available, we will assist you to understand the documents. *

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CHAPTER 1, FIGURE 1-N

(Letter Informing Homeowner When Builder
Seller, Warrantor, Guarantor or Certifying Contractor Fails
to Correct Items That are Their Responsibility)
(Modify as Necessary When Other Than Builder)

Subject: FHA Case No.

Dear _____:

I am replying to your recent letter concerning the difficulty you are experiencing with your home.

Our examination showed that correction of these items should be the responsibility of the builder. The builder is either unable or unwilling to make the required corrections and has failed to

respond to our request to do so. In these cases, our recourse is to decline to do further business with the builder.

The builder was notified, that until such time as all construction defects for which the builder is responsible are corrected satisfactorily, that HUD-FHA will decline to accept for processing applications where the builder is a party to the transaction for a period not to exceed 12 months. Generally, restriction of this type alerts the builder to the responsibility and a decision may be made to make the corrections. This is necessary if the builder desires to restore eligibility to do business with HUD-FHA.

I am sorry that I cannot give you a more favorable reply, as to the builder's correction of your justified complaints.

(Add if Section 518(a) may be applicable)

If you have justifiable complaints of structural defects in your home, it may be possible for HUD to render some form of financial assistance relating to them. Please fill out the enclosed Form HUD 92556SFA (Request for Financial Assistance) and return it to this office no later than four years after the date of the first Mortgage Insurance Certificate (Form HUD 59100) on your property. The date of the Form HUD 59100 may be obtained from the parties to whom you tender your mortgage payments, but will be approximately the date when you originally signed papers transferring title of the property to you. *

Sincerely,

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CHAPTER 1, FIGURE 1-0

(Follow-up Letter to Builder, or Other Person
Responsible for Defect, When Notification is
Not Received by Suspense Date)

Subject: FHA Case No.
Owner
Address

Dear _____:

You informed this office that defects in the subject property would *be corrected by _____. To date, we have not been notified of the completion of corrective action on the following items:

(list items for which notice of completion has not been received)

Please inform this office in writing within 15 days as to the completion of the corrective action or the reason for delay in correction.

(Add when applicable)

Since corrective action on the above listed items will require more than 45 days, effective as of the date of this letter, an Order of Temporary Denial of Participation is imposed against you. We will decline to process applications wherein you are a party to the transaction. This order is limited to the jurisdiction of this office, but the order will not be removed until all complaints on the items listed above have been satisfactorily corrected, or 12 months have elapsed.

If you disagree with this decision, you may obtain an informal hearing by sending a written request to me for reconsideration of this decision. The request must be received within 20 days from the * date of this letter.

Sincerely,

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CHAPTER 1, FIGURE 1-P

(Suggested Type Letter for Responding to a
Request for an Informal Hearing)

REGISTERED MAIL - RETURN RECEIPT REQUEST

Subject: FHA Case No.
Address

Dear _____:

Your request for an informal hearing is hereby acknowledged. On (date/time), at (location), an informal hearing will be held to *reconsider the Order of Temporary Denial of Participation Imposed against you. If these arrangements are not suitable, please inform me so an alternative date may be selected. At the hearing, you may be represented by legal counsel who may present all relevant materials on your behalf. Formal rules of evidence and procedure will not apply. Within 30 days of the hearing, I will advise you of my decision to withdraw, modify or affirm the Order of Temporary * Denial of Participation.

Sincerely,

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CHAPTER 1, FIGURE 1-Q

(Suggested Letter Informing Builder, or Other Person
Responsible for the Defects That an Order of Temporary
Denial of Participation Has Been Affirmed)

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Subject: FHA Case No.
Address

Dear _____:

Having reviewed all materials presented at the informal hearing held
*on _____, I have decided to affirm the Order of Temporary
Denial of Participation. If you wish to appeal this decision, you
may write to the Assistant Secretary for Housing at 451 7th Street,
SW, Washington, DC 20410. Your written request must be received
within 20 days of the date of this letter. A hearing granted in
response to an appeal to the Assistant Secretary for Housing will be
conducted in accordance with 24 CFR 24.7(b). *

Sincerely,

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SECTION 4. EXISTING CONSTRUCTION COMPLAINTS

1-18. GENERAL. The extent of authority to correct defects
* resulting from homeowner complaints, if an existing
property and insured under Section 235, is limited to
those eligible items in properties meeting the statutory
eligibility criteria under Section 518(b). Valid items
are to be corrected promptly.

HUD has no authority to correct defects resulting from
complaints pertaining to an incorrect or improper
contractor certification or mortgagees certifications or to
any defects overlooked by the HUD appraiser at the time
of appraisal.

1-19. EVALUATION OF ELIGIBLE COMPLAINTS. Complaints which
cannot be resolved by the Complaint Officer (C.O.) shall be
forwarded to the Director, Housing Division/Service Office*
Supervisor for necessary action. Complaints that are

minor in nature, as outlined in Paragraph 1-26, or those not requiring technical review or inspection may be evaluated and disposed of by the C.O.

- 1-20. COMPLAINT OFFICER'S ACTIONS. The C.O. will review the formal complaint to determine if the submission is complete and if HUD mortgage insurance is involved and will also prepare an acknowledgement. If the submission is incomplete, the C.O. will request further information. The C.O. will initiate a Case History Card, HUD-92557, at this time. In the event that HUD-FHA is not involved either directly or indirectly, the C.O. will notify the homeowner by letter and, if appropriate, refer incoming correspondence to those who may be able to provide assistance, such as the Veterans Administration, Farmers Home Administration, etc.

If the C.O. determines that the case is Section 235 existing and eligible under Section 518(b), the procedures contained in Chapter 3 of this Handbook must be followed. If the complaint is justifiable, the C.O. will initiate a request for the case binder and other necessary information and notify all responsible parties (certifiers or mortgagees) of complaint items. If no answer from a responsible party is received in 15 days, a follow-up letter is sent.

- 1-21. CORRECTION OF COMPLAINTS. The correction of an eligible complaint will be attempted through, but not limited to, written demands on the certifying contractor or the certifying mortgagee as deemed necessary and appropriate.

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- If corrective action is not obtainable through the certifying contractor or certifying mortgagee and the C.O. has determined that correction cannot be accomplished through the provisions of Section 518(b) of the Housing Act, the complaint file will be forwarded to the Director, Housing Division/Service Office Supervisor for assignment for field inspection.

- 1-22. ASSIGNMENT FOR FIELD INSPECTION. Since the resolution of a homeowner complaint is often a difficult matter, the Director, Housing Division/Service Office Supervisor should assign the complaints to the best technical staff available when a field review is required. All complaints will receive a field inspection, except those meeting the exception criteria in Paragraph 1-26. The Director, Housing Division/Service Office Supervisor will assign all complaints to an appraiser or inspector who is qualified to handle the particular complaint judiciously. Each item of complaint shall be covered on a

- * Form HUD-92051 Compliance Inspection Report or by a memorandum. *
- 1-23. COMPLAINTS NOT TO BE FIELD REVIEWED. Complaints which ordinarily will not require a field review are those involving cosmetic or maintenance items which are obviously not eligible for any kind of assistance. However, should a complainant insist upon field inspection, an inspection shall be made.
- 1-24. PARTICIPANTS IN THE FIELD REVIEW. There is no objection to any responsible party to the complaint being present during the inspection. They shall be notified in advance of the time of inspection and invited to be present. The inspector or appraiser should be careful not to make personal judgment as to responsibility to any party to the claim.
- 1-25. FIELD REVIEWER'S ACTIONS. When the defect is one that is not eligible for repair and/or compensation through a HUD program, the appraiser or inspector shall so inform the homeowner. The appraiser or inspector will, to* the best of their ability, inform the homeowner of what is needed to correct the deficiency and suggest either "do it yourself" methods if the defect is minor in nature or the hiring of a contractor if the defect is more serious. Every possible courtesy will be extended by the appraiser or inspector to the homeowner. The appraiser or* inspector should then file a report with the Director, Housing Division/Service Office Supervisor and the C.O. for official follow-up action. *

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- 1-26. FOLLOW-UP. The Director, Housing Division/Service Office Supervisor upon receipt of the report concerning the field inspection will take the actions indicated by the report. If administrative action is indicated, the Service Office Supervisor will initiate the action by memorandum to the Area Office Manager. A written report to the C.O. will be made concerning responsibility and other* pertinent matters necessary to resolve the complaint. If HUD cannot be of further assistance, the C.O. will send a follow-up letter to the homeowner which sets forth the reasons for HUD's position along with HUD's opinion on the manner in which the defect can best be corrected.
- 1-27. ACTION AGAINST NON-OCCUPANT SELLERS. In all cases where a complaint is received and the seller is one who is in the business of seller for profit and was not the last owner-occupant, an attempt shall be made to obtain correction of all justifiable items of the complaint. The Field Office shall use all options available within the scope of its authority to achieve timely and equitable

settlements from the seller. This procedure will be followed regardless of the Section of the Housing Act under which the appraisal was processed. All such attempts will be thoroughly documented.

1-28. ACTION AGAINST CONTRACTORS. When the complaint
* involves the failure by a contractor to resolve an eligible complaint, an Order of Temporary Denial of Participation shall be imposed. *

Failure of a licensed firm to correct eligible complaint may warrant notification of the appropriate licensing authority in addition to the other actions described herein.

* Failure of a responsible party to correct an eligible complaint may result in issuance of an Order of Temporary Denial of Participation by which the Field Office will refuse to accept future certifications from the parties involved that the work is completed. *

* If when reviewing complaints, the Director, Housing Division/Service Office Supervisor notices a non-typical number of complaints being received on a specific contractor, the contractor's name will be forwarded to the Architectural and Engineering Branch requesting additional field reviews be completed on the specific contractor.

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1-29. TIMELINESS OF ACTION. In all instances which require field
* inspection, the inspection shall be scheduled and completed within 5 working days after receipt of the case binder relative to the complaint. Written response to the homeowner concerning the action to be taken shall be completed within 5 working days after completion of the field inspection.

On those complaints not requiring a field inspection, a written response to the homeowner concerning the findings and any action to be taken shall be completed within 5 working days after receipt of the complaint.

In all instances where the complaint is found to be within the jurisdiction of the Veterans Administration, the Veterans Administration shall be so advised in writing within 5 working days after receipt of the complaint. The homeowner shall be notified that the complaint has been routed to the Veterans Administration for response.

1-30. COMPLAINT CLOSE-OUT. The complaint file will be closed out
by the C.O. after the follow-up letter and/or any other appropriate notification to the homeowner and other interested parties is completed. *

