



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

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

May 22, 2003

MORTGAGEE LETTER 2003-07

**TO: ALL APPROVED MORTGAGEES
ALL FHA ROSTER APPRAISERS**

SUBJECT: Prohibition of Property Flipping

On May 1, 2003, the Department of Housing and Urban Development published a final rule in *The Federal Register* amending the mortgage insurance regulations to prevent the practice of flipping on properties that will be financed with Federal Housing Administration (FHA) insured mortgages. Property flipping is a practice whereby a recently acquired property is resold for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. These changes to existing credit policies, in effect for all mortgage loan applications signed on or after June 2, 2003, will eliminate the most egregious examples of predatory flips of properties within the FHA mortgage insurance programs and, thus, preclude home purchasers using FHA financing from becoming victims of predatory flipping activity.

This Mortgagee Letter provides a synopsis of the final rule, as well as specific guidance to assist lenders in complying with these new requirements. We urge mortgage lenders and appraisers to review the entire published final rule as well.

Highlights of Final Rule

The final rule requires that: a) only owners of record can sell properties that will be financed using FHA insured mortgages; b) any re-sale of a property may not occur 90 or fewer days from the last sale to be eligible for FHA financing; and c) that for re-sales that occur between 91 and 180 days where the new sales price exceeds the previous sales price by 100 percent or more, FHA will require additional documentation validating the property's value. In addition, the rule provides flexibility for FHA to examine and require additional evidence of appraised value when properties are re-sold within 12 months.

Sale by Owner of Record

To be eligible for a mortgage insured by FHA, the property must be purchased from the owner of record and the transaction may not involve any sale or assignment of the sales contract.

This requirement applies to all FHA purchase money mortgages regardless of the time between re-sales.

The mortgage lender must obtain documentation verifying that the seller is the owner of record and submit this to HUD as part of the insurance endorsement binder; it is to be placed behind the appraisal on the left side of the case binder. This documentation may include, but is not limited to, a property sales history report, a copy of the recorded deed from the seller, or other documentation such as a copy of a property tax bill, title commitment or binder, demonstrating the seller's ownership of the property and the date it was acquired.

Re-sales Occurring 90 Days or Less Following Acquisition

If a property is re-sold 90 days or fewer following the date of acquisition by the seller, the property is not eligible for a mortgage insured by FHA. FHA defines the seller's date of acquisition as the date of settlement on the seller's purchase of that property. The re-sale date is the date of execution of the sales contract by the buyer that will result in a mortgage to be insured by FHA.

As an example, a property acquired by the seller is not eligible for a mortgage to be insured for the buyer unless the seller has owned that property for at least 90 days. The seller must also be the owner of record.

Re-sales Occurring Between 91 and 180 Days Following Acquisition

If the re-sale date is between 91 and 180 days following acquisition by the seller, the lender is required to obtain a second appraisal made by another appraiser *if* the resale price is 100 percent or more over the price paid by the seller when the property was acquired.

As an example, if a property is re-sold for \$80,000 within six months of the seller's acquisition of that property for \$40,000, the mortgage lender must obtain a second independent appraisal supporting the \$80,000 sales price. The mortgage lender may also provide documentation showing the costs and extent of rehabilitation that went into the property resulting in the increased value but must still obtain the second appraisal. The cost of the second appraisal may not be charged to the homebuyer.

FHA also reserves the right to revise the re-sale percentage level at which this second appraisal is required by publishing a notice in the Federal Register.

Re-sales Occurring Between 91 Days and 12 Months Following Acquisition

If the re-sale date is more than 90 days after the date of acquisition by the seller but before the end of the twelfth month following the date of acquisition, FHA reserves the right to require additional documentation from the lender to support the re-sale value if the re-sale price is 5 percent or greater than the lowest sales price of the property during the preceding 12 months. At FHA's discretion, such documentation may include, but is not limited to, an appraisal from another appraiser.

FHA will announce its determination to require the additional appraisal and other value documentation, such as an automated valuation method (AVM), through a Federal Register issuance. This requirement may be established either nationwide or on a regional basis, at FHA's discretion.

Exceptions to 90-day Restriction

The final rule exempts properties acquired by an employer or relocation agency in connection with the relocation of an employee from the time restriction on re-sales. Re-sales by HUD under its Real Estate Owned (REO) program are not subject to the time restrictions. However, any subsequent re-sale of such a property must meet the 90-day threshold in order for the mortgage to be eligible as security for FHA insurance. The Homeownership Centers (HOCs) do not have the authority to waive the regulatory requirements set forth in the final rule.

The restrictions established by the final rule are not intended to apply when a builder is selling a newly built home or is building a home for a homebuyer wishing to use FHA-insured financing. HUD will more fully address this issue through issuance of the Federal Register notice provided for in § 203.37a(b)(4)(iv) of the final rule.

Date of Property Acquisition Determined by the Appraiser

In addition, mortgage lenders may rely on information provided by the appraiser in compliance with the updated Standard Rule 1-5 of the Uniform Standards of Professional Appraisal Practice (USPAP). This rule requires appraisers to analyze any prior sales of the subject property that occurred within specific time periods, now set for the previous three years for one-to-four family residential properties.

As a result, the information contained on the Uniform Residential Appraisal Report (URAR) describing the Date, Price and Data for Prior Sales for the subject property and the comparables is to include all transactions that occurred within three years of the date of the appraisal. Appraisers are responsible for considering and analyzing any prior sales of the property being appraised and the comparables that occurred within three years of the date of the appraisal.

Therefore, provided that the URAR completed by the appraiser shows the most recent sale of the property to have occurred at least one year previously, no additional documentation is required from the mortgage lender. The mortgage lender remains accountable for verifying that the seller is the owner of record and may rely on information developed by the appraiser for this purpose if provided. However, if the lender obtains conflicting information before loan settlement, it must resolve the discrepancy and document the file accordingly.

Summary of Property Flipping Regulations In Effect June 2, 2003

Prior Sale Occurred	0-90 Days	91-180 Days
Eligibility for FHA Financing	<p>Not Eligible</p> <ul style="list-style-type: none"> • Exceptions include relocation agencies and re-sales by employers to employees and sales by HUD of Real Estate Owned. • The HOCs cannot grant exceptions. 	<p>Eligible <i>provided</i>:</p> <ul style="list-style-type: none"> • Re-sale price to FHA mortgagors is less than 100% greater than previous sale or • If 100% or more greater than previous sale, second appraisal supports value

If you have any questions regarding this Mortgagee Letter, please contact your Homeownership Center (HOC) in Atlanta (888-696-4687), Denver (800-543-9378), Philadelphia (800- 440-8647), or Santa Ana (888-827-5605).

Sincerely,

John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner