

# United States Senate

WASHINGTON, DC 20510

March 31, 2009

The Honorable Shaun Donovan  
Department of Housing and Urban Development  
451 7th Street S.W.  
Washington, DC 20410

Dear Secretary Donovan:

We are writing to bring to your attention a unique circumstance we face in the Michigan housing marketplace regarding “site condominiums.”

As you may know, the Housing and Economic Recovery Act of 2008 (HERA) included a provision which enabled the Federal Housing Administration (FHA) to insure mortgages on site condominiums. After the enactment of HERA, HUD was charged with the implementation of this provision and was to publish a “Mortgagee Letter” with the new guidance for FHA coverage of site condos. HUD originally set a target date for the letter to be drafted by November 1, 2008 and promulgated by December 31, 2008, however to date, no mortgagee letter has been released and this important change is still not being implemented.

Michigan is the only state in the nation that has what is called a “site condo” development law. More than 90 percent of the single family homes built in and around Detroit over the past ten years have been built as “site condos” under Michigan’s unique development law. Similar development has occurred across the state and we are learning of lost sales opportunities in each of our major cities because FHA assistance was not available. As single family homes, many of these dwellings would qualify for FHA’s single family home financing programs. However, since they were developed under Michigan’s site condo law (which allows streamlined regulatory consideration) and are described as site condos there is no legal guidance from your department on how they can be qualified for financing. Unless these homes meet the generic condo rules for FHA qualification, they cannot participate in FHA programs.

We have inquired with your agency about the implementation and were told that the HUD General Counsel’s office is working through a number of issues with all of the new condominium rules and that they plan to implement the changes as soon as possible. However, from the response to our inquiry, it seems that this issue is being lumped together with all of the new guidance for traditional condominium financing and it is really a different issue. We believe it is unfair to withhold action on this Michigan-specific need while the department develops overall rules for condo financing. It is threatening the livelihood of homeowners trying to sell their properties and builders who need every tool available to sell their homes in this marketplace.

We appreciate your prompt attention to this issue. If you have any questions, please do not hesitate to contact us or Colleen Briggs (Sen. Stabenow, 202-224-4288) or Kata Sybenga (Sen. Levin, 202-224-6221) of our staffs.

Sincerely,

  
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Senator Carl Levin

  
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Senator Debbie Stabenow