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HUD Part I Summary

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Moderator

Alan Jaffa, Safeguard Properties

Panel

William Collins, U.S. Department of Housing and Urban Development
Matt Martin, U.S. Department of Housing and Urban Development
Sharon Lundstrom, U.S. Department of Housing and Urban Development
Marie Sigler, CitiMortgage
Sherilee Massier, Wells Fargo
Michelle Stevens-Schultz, Chase
Andrew Justman, Marshall & Swift
Caroline Reaves, Mortgage Contracting Services
Kellie Chambers, Safeguard Properties
Michele Stockdale, Lender Processing Services

Session Overview

The discussion points generated during the first of two HUD sessions focused on response timeframes, methods for handling and curing exceptions, review of the MSB (Marshall & Swift/Boeckh) Cost Estimator, P260 system enhancements, personal property removal, and issues of conveyance.

MCB Status and Update

William Collins provided an overview of Michaelson, Connor & Boul's (MCB) contracted activities and related compliance, recognizing that processing volume and reviews have resulted in a significant savings to HUD.

Between P260's inception on April 7, 2010 through November 5, 2010, MCB processed more than 201,000 overallowable requests from servicers. Upon implementation of the new guidelines in ML 2010-18, MCB saw a significant decrease in the number of overallowable requests submitted per loan. The average dropped to only 3.5 requests from a prior average of 8. The reduction in requests allowed MCB to meet their contract requirements of responding within 5 business days, and MCB maintains the requirement to date.

Servicers experienced some delays with the processing of title package reviews. However, the delays were not with MCB, but a result of SAMS configurations. Despite the SAMS glitches, MCB was able to process over 68,000 reviews as of November 2010.

HUD maintains a close working relationship with MCB and has reporting to monitor response time performance. Collins clarified that all overallowable appeals are reviewed by MCB, as they are the industry expert with over 10 years of experience. In the event of an exception, an appeal can be sent to the GTR if the servicer disagrees with MCB management. An internal quality control review of the MCB contract is in place to ensure that MCB complies with the guidelines. MCB and HUD meet regularly to review quality control findings by the GTR, which includes measures to ensure that accurate and consistent responses. Improvements continue to be recognized with respect to response times and guideline compliance.

Requests for extension of time to convey beyond 45 days and extension appeals are escalated to the GTR through P260. Collins reaffirmed to the audience that their team may be a bit behind in responding to servicers' appeals, including surchargeable damages, but they are working hard to respond to each request timely. Collins has a team of two assisting in the GTR reviews. Due to system configuration of P260, follow-up on pending requests with the GTR should be conducted via email or a phone call because the team is committed to returning calls and answering emails.

Occupied Properties, Tenant Protection Issues

As tenant protection continues to be an issue requiring close attention—as well as the implementation of specific procedures by the industry—HUD stressed that servicers must adhere to all local regulations and use internal legal counsel for matters requiring interpretation or confirmation for compliance.

HUD has clearly expressed that occupied properties are not eligible for conveyance and that the servicer is expected to honor a bona fide lease through its tenure until termination. Servicers must maintain proper documentation regarding the bona fide lease. The process is defined in the Federal Register and servicers are required to comply with the process as defined.

HUD has a mortgagee letter in process to address the industry concerns regarding the maintenance and conveyance process of tenant-occupied properties. Servicers should expect the release of the mortgagee letter in early 2011. Until then, servicers are required to maintain the property until vacancy and submit requests through P260 as with all other pre-conveyance activities.

HUD recognizes that the current \$1,000 cash-for-keys allowable needs further review. An increase was suggested by the panel and HUD is considering this.

MCB Exceptions & Claims

The importance of submitting essential and accurate scopes of work in a timely manner was reiterated by HUD and MCB staff. William Collins reminded the audience of the importance of complete and detailed information to better assist MCB in responding to

requests and eliminate unnecessary questions. The bid cost estimating software requires details and scopes of work; Collins noted that servicers must provide that information even if not currently using a bid cost estimator program.

HUD is working with MSB and MCB to define a process for addressing exceptions, as there are too many cases of overallowable requests for work outside of HUD's expected scope of work. Examples raised by the audience included structural engineer's reports and biohazards. In some cases, detailed reports may be necessary to better make informed decision on how to best proceed.

Hazard Insurance Recovery

Collins reminded the industry that there is no threshold or guideline regarding when servicers are required to seek insurance recovery for damages. Servicers are required to pursue insurance funds when coverage is available to pay for repairs to the property. HUD recognizes that an increase in the number of claims filed may result in increased premiums; however, that does not negate the responsibility to reduce the losses to the FHA fund. HUD wants properties repaired prior to conveyance and expects servicers to seek recoverable depreciation from the insurance company.

Conversely, documentation is required to explain cases where a claim is not being filed on damages incurred to the property, or to support requests to convey "as is" with insurance proceeds. The example of "high vandalism areas" was specifically discussed. Any such requests should contain details and documentation to support the definition as such.

The group asked that additional consideration be given to damages that are typically not claimable, including those under the category of and qualifying for "wear and tear," such as a 30-year-old roof with deferred maintenance. MCB will still ask whether a hazard claim was filed for the damages if details for the bid are not provided.

Servicers do not object to the pursuit of insurance recovery for non-surchageable damages if conveyance extensions will be approved for the length of the process. Servicers should appeal denied extensions in these cases. However, the GTR will expect to see the diligent follow-up with the insurance company to support the request.

HUD will accept properties in a convey "as-is" with non-surchageable damages when a timeline supports repeat vandalism and supporting documentation and forwarding insurance proceeds will assist in the decision. William stated that these should be exceptions and the request will be reviewed on a case-by-case basis.

ML 2010-18

With the implementation of ML 2010-18 eliminating 2nd bids, increasing the total P&P allowable per property to \$2500 and the use of a bid cost estimating software, servicers are reporting a decrease in the average number of days to convey a property. The

audience responded that they are seeing a 50+% increase in the number of properties conveyed within 25 days, and a decrease in the number of bids submitted is the primary reason. Some servicers have seen a slight increase due to the state laws surrounding personal property evictions, while others expressed no impact due to county delays with foreclosure deed recordings.

MSB Cost Estimator Updates

HUD has been reviewing existing policy in comparison to the number of cost estimator bids being submitted. The two most common uses for the bid cost estimator are reglazing and roof patching/repairing. Policy adjustments to better address these two items are under consideration.

HUD entered into a one-year pilot program with MSB, but does not require the servicers to use the program. Servicers are encouraged to use a cost estimator program to support P&P expenses. Enhancements to the MSB software are in development and anticipated for release in the first quarter of 2011. Updates to the cost estimator will include pricings for grass cuts, snow removal, dehumidifiers, biohazards, and the like. MSB's Andrew Justman confirmed that multiple aspects and capabilities are under review and that this form of feedback is welcomed and critical for the development of upcoming enhancements.

It was also mentioned that the cost estimator was designed for the insurance industry, rather than for the needs specific to property preservation. The panel asked MSB to comment on their efforts to include the industry in developing pricing or item enhancements. MSB will research the request and publish and meets with MCB regularly to discuss the needs for property preservation items. Bluebook has made significant outreach to the industry to work in tandem to develop a program to better align their product with Property Preservation needs versus insurance specific.

At this time there is no integration of the bid cost estimator program with P260. However, MSB is open to the integration and HUD is considering the exploration of the integration.

Sherilee Massier suggested that a copy of the cost estimator's findings and calculations that influenced such decisions by MCB would assist the servicer and vendors in the field. The panel added that when MCB provides a copy of the bid cost estimator's report, the scope of approved work is vastly different than the scope of work originally bid. The panel asked MCB and HUD to provide instruction regarding scope of work standards issued by HUD. One example discussed was a bid to install a fiberglass garage door, but a wood door was approved. HUD agreed that MCB should provide a reason to support the difference in scope. MCB asked that the servicer include the detailed reason for the scope of work requested.

P260 Enhancements

With a volume of 1.5 million loans downloaded to P260 from SFDMS reporting each month, HUD is reviewing a modification of this frequency to weekly, which will significantly expedite services by reducing the number of invalid FHA case numbers on the system. P260 functionality was not fully activated until the final implementation of the FSM and AM contracts.

Collins shared that P260 is “an evolving product” and a much more efficient way for the servicers to interact with MCB and HUD than the old paper fax system. HUD recognized that the industry has enhancement requests, and noted that it, too, is working on additional upgrades to better assist in the process.

Enhancement suggestions focusing on reporting and procedural streamlining included:

- Ability to upload general comments and facilitate responses
- Multiple sessions running and uploading simultaneously
- Providing a dashboard of outstanding requests for the whole property
- Full status reports on P260 to replace individual emails
- Ability to see reconveyances or demands in a report
- Ability to mass print overallowable responses at one time

A representative from Yardi stated that the suggestions were possible, and HUD added that they will be considered when evaluating the effectiveness and capabilities of the system.

Personal Property Disposition

New guideline requirements for “broom swept condition,” increased public attention, and the many liabilities associated with the removal of personal property prior to conveyance have created much concern and caution among servicers. Prior to ML 2010-18 properties were conveyed with interior debris, including the personals. With the change to conveyance requiring full interior broom swept condition, there is now increased liability and borrower complaint when personal items are removed from the property.

The audience gave mixed feedback on how they are currently addressing personals, further supporting the need for a consistent process. HUD requires that all servicers and field services providers adhere to state laws regarding the removal of personal property, for which there are currently only 9 states with eviction requirements. As the lack of clear direction in the remaining 41 states poses significant risks to the industry, many servicers are taking a conservative route to store personals removed within these jurisdictions.

Sarah Martin indicated that documentation of average costs to remove and store personals would be helpful as HUD further evaluates the options for reimbursement, as well as other related issues and impacts.

Servicers also have wide variances in their definition of what constitutes personal property. Some servicers use a personals property threshold as low as \$300, while others are as high as \$2500, with most averaging a \$500 garage sale value as their threshold. A dollar threshold for personals has not yet been defined by HUD, but servicers request direction. HUD is reviewing the issue and will review the three proposals offered by the panel:

- Store personals at the property
- Remove and store for 30 days
- Revise eviction requirements

HUD will work to issue clarification and direction to the industry early in 2011.

Tarp Installation

With the implementation of ML 2010-18, servicers are no longer permitted to convey properties with a tarp on a roof. The roof must be patched or repaired. The panel asked for special considerations when weather (below 18 degrees) or homeowners associations (HOAs) prevent permanent roof repairs. Collins stated that roofs can be repaired in cold temperatures and HUD recognizes that additional labor or material costs may be associated and will be approved.

HUD recognizes that the HOAs are also experiencing financial difficulties as a result of the increase in foreclosures, and therefore cannot complete roof repairs at times. HUD will review the issue and agrees the servicer may need additional tools to get the roof repaired to convey the property. HUD will consider convey requests with a tarp on a case by case basis.

Reconveyance

Collins indicated that HUD is working to address the backlog of servicer requests to transfer reconveyed properties back into HUD's inventory. He offered feedback on several audience requests.

- HUD will explore the panel's recommendation to expedite acceptance of reconveyed properties where the title deficiency has been corrected.
- HUD will work to enhance P260 to reflect that a property is being reviewed for reconveyance and when an appeal has been read and is under review.
- HUD will not be coordinating joint inspections between the FSM vendor and the servicer prior to acceptance of a reacquisition.

Collins reiterated that any property with a minimum of \$2,500 of surchargeable damages will be automatically reconveyed. Damages below the \$2,500 threshold will result in a demand letter issued to the servicer. HUD will grant extensions of time to appeal intents to reconvey in the event the servicer is working to obtain the documentation from third parties where applicable.

Joint Industry Training

Martin confirmed that HUD recognizes the need for—and fully supports—ongoing training within the industry. Webinars, collaboration with the Mortgage Bankers Association (MBA) to establish topic related working groups, industry-wide calls, and on-line training are being explored to allow for and foster the exchange of information so that servicers can stay current on critical guidelines and approaches, including such reconveyance issues.