



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

OFFICE OF HOUSING

OCT 12 2005

VIA FAX and COURIER

Ms. Pamela F. Banks
Vice President
Regulatory Compliance
Fannie Mae
3900 Wisconsin Avenue, NW
Washington, DC 20016-2892

Dear Ms. Banks:

By letter to HUD dated July 6, 2005, Fannie Mae described modifications to its multifamily underwriting standards that will permit Fannie Mae to finance senior housing continuum of care residence communities that include skilled nursing units as a small component. Continuum of care residence communities offer a range of services to meet the changing needs of seniors as they age by providing choices that range from independent living to varying degrees of assisted living and skilled nursing care.

In announcing this change, Fannie Mae established underwriting requirements that placed limitations on the extent to which it would finance skilled nursing units. For example, Fannie Mae stated that it "initially plans to make the skilled nursing enhancement available only to seniors housing residence communities that predominantly offer independent and/or assisted living units." Fannie Mae also stated that "the percentage of income derived from skilled nursing is limited to approximately 20 percent..." and that it required "a minimum 15 percent vacancy rate for the skilled nursing component."

Skilled nursing units principally provide health care services to seniors, and occupancy costs are usually paid or reimbursed by health care insurance. In these regards they differ from dwelling units, including independent living units and assisted living units, which are paid by monthly rent and where varying levels of assistance are provided to residents. Skilled nursing units, however, offer important support for senior residents in continuum of care residence communities. Accordingly, the Department has determined that some limited financing of continuum of care senior communities that include skilled nursing units is consistent with Fannie Mae's Charter Act provided that the skilled nursing units are used for the benefit of senior residents in continuum of care communities and they are minimal in the context of the continuum of care community that Fannie Mae will finance. Fannie Mae's current underwriting requirements, which were described in its letter of July 6, 2005, are consistent with those limitations.

If Fannie Mae wishes to change its current underwriting requirements for seniors housing in a manner that would increase the percentage of income derived from skilled nursing units to more than 20 percent of the income derived from the whole project or that would permit financing a skilled nursing facility separate from a continuum of care residence community, Fannie Mae must first seek the Department's new program review and approval under section 1322 of the Federal

Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) codified at 12 U.S.C. 4501 et seq. and HUD's regulations at 24 CFR Part 81, Subpart D.

With regard to counting skilled nursing units towards the housing goals, the Department has determined that skilled nursing units are not eligible for housing goals credit because they are not dwelling units. As previously described, skilled nursing units differ substantially from other types of housing units in that they are intended to be used for medical purposes, and housing is incidental to those purposes. In fact, skilled nursing units are more similar to hospital rooms because they provide medical care, which is usually constant and extensive, and is paid or reimbursed in large part by health insurance. For these reasons, skilled nursing units do not constitute dwelling units as defined in 24 CFR § 81.2 and may not be counted towards any of the housing goals under HUD's regulations, including 24 CFR §81.15.

Please do not hesitate to call me if you have any questions about the Department's determinations regarding skilled nursing units.

Sincerely,

A handwritten signature in black ink that reads "Sandra L. Fostek". The signature is written in a cursive style with a long horizontal line extending to the right.

Sandra L. Fostek
Director
Office of Government Sponsored
Enterprises Oversight

cc: Luke H. Brown