



July 8, 2008

The Honorable Steve Preston
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Dear Secretary Preston:

We are writing to you regarding a recent HUD policy communiqué that is causing adverse consequences in the Puerto Rican real estate market. As such, we want to bring to your attention the attached communication from the Puerto Rico and Caribbean Chapter of the Appraisal Institute (PRCCAI) that details a conflicting interpretation made by HUD on a recently enacted tax credit program. Because of the confusion, our organizations seek your official clarification.

An April 25, 2008 letter from HUD to Mr. José Gómez, President of the Puerto Rico Mortgage Bankers Association (PRMBA), was distributed to attendees (lenders, appraisers and others) of a HUD training program held in Puerto Rico during the week of May 5-9, 2008. The letter to the PRMBA states that the tax credit would be considered as a *grant* and not as a *sales incentive* (or concession). The PRCCAI has informed us that this is causing false interpretations of the Program of Tax Credits (Law 197), leading to instances of appraiser coercion and promotion of inflated appraisals. As a result of the April 25 letter, market-based adjustments for the impact of tax credits are being ignored or not considered, leading to an overall increase of the potential default risk on residential loans.

HUD's recent interpretation appears to be in conflict with the Uniform Standards of Professional Appraisal Practice (USPAP) Standard 1-2c that requires that market value opinions be based in terms of cash or its equivalent, or that the impact of financing with unusual conditions or incentives be disclosed. It also appears to be in conflict with USPAP Standard 1-4 requiring the collection, verification and analysis of all information necessary for credible assignment results. Further, HUD's position conflicts with the U.S. Department of Veterans' Affairs' position, which has indicated it would treat the tax credit as a concession.

Further, Fannie Mae has indicated the tax credit as something "noteworthy" that should be discussed when analyzing and commenting on the contract of the property if the sale is expected to include the credit. Most confusing to the PRCCAI is that the recent interpretation appears inconsistent with HUD's own Mortgagee Letter 2005-02, entitled "Sellers Concessions and Verification of Sales". Leading independent authorities that have consulted with the PRCCAI agree that the tax credit program should be treated as a sales concession and adjusted accordingly, in accordance with market evidence.

Our organizations respectfully urge HUD to reconsider its recent interpretation and to provide clarity on your position on this matter. We would be happy to discuss this issue with you in greater detail. Please contact Bill Garber, Appraisal Institute Director of Government Affairs, at 202-292-5586 or bgarber@appraisalinstitute.org, if you would like to discuss this issue or have any follow-up questions. We look forward to your response.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers

Attachments