



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

October 16, 2008

MORTGAGEE LETTER 2008-31

TO: ALL APPROVED MORTGAGEES

ATTENTION: Single Family Servicing Managers

SUBJECT: 2008 Update of Preservation and Protection Guidelines, and Cost Reimbursements

This Mortgagee Letter supersedes Mortgagee Letter 2007-03 in its entirety. The purpose of this Mortgagee Letter is to update and clarify existing policy on preservation and protection provisions, referencing changes related to photographs, debris removal, inspections, over-allowable requests, second bids, repair of heating systems, winterization, permits and vacant property registration fees.

This Mortgagee Letter is comprised of a General Guidance Section and ten (10) attachments. In addition to the aforementioned changes, the HUD forms (i.e., Form HUD-9519-A, Form HUD-50012, Form HUD-50002 and Form HUD-27011) referenced in this Mortgagee Letter is now PDF fill-able.

Effective Date of Mortgagee Letter

The effective date for Mortgagee Letter 2007-03 was April 30, 2007. The effective date for policy changes and clarifications announced in this Mortgagee Letter shall be the publication date for this letter. The preservation and protection guidance updates are as follows:

Photographs

Mortgagee Letter 2007-03 provided, "If photographs cannot be produced at the time of the claim review, all unsupported expenses beyond allowable cost limits will be disallowed, and for evictions, all expenses claimed for personal property/debris removal will be disallowed." This Mortgagee Letter provides clarification to this guideline to eliminate payment of allowable expenses without documentation. The guideline is revised as follows.

If photographs cannot be produced at the time of the claim review, the following will be disallowed:

- a. All unsupported expenses
- b. All expenses claimed for personal property/debris removal including evictions.

Debris Removal (Dump Receipts)

Mortgagee Letter 2007-03 provided in Attachment 5, Section I, paragraph 2 that mortgagees must maintain “dump fee receipts” in order to claim reimbursement for debris removal. HUD's allowable fee for debris removal is based on the number of cubic yards of debris handled and provides reimbursement for all costs incurred in the removal including: mileage costs incurred in traveling to the property, labor to load the debris, mileage costs incurred to deliver the debris to the disposition facility and any fee the disposal facility might charge.

The Department acknowledges that it is a common business practice of many property preservation contractors to wait until they have collected debris from several properties before taking the debris to an appropriate facility for disposal and that not all disposal facilities provide printed receipts. Therefore, where such receipts are not available, Mortgagees will not automatically be denied reimbursement for debris removal. However, the Department must be able to confirm the type and amount of debris that was removed and that all debris was disposed of properly. Therefore, Mortgagees must maintain a complete audit trail which will include: the name, address, and phone number of each company providing the debris removal service, the FHA case number and address of the property, the date of the disposal, the number of cubic yards of debris disposed and a listing of any items that are not ordinary household debris which would include health and safety items, tires, appliances, cars, trucks, boats, batteries, etc. The documentation must also provide the name, address and telephone number of all disposal facilities used.

If a dumpster was brought to the property, the supporting information must identify the date the dumpster was delivered to the property, the date it was removed, and the name, address and telephone number of the company supplying the dumpster.

Inspections

The following guidance clarifies the responsibility of a Mortgagee to make an effort to determine occupancy before incurring the expense of a property inspection. The industry has developed a variety of tools, including the use of “door-hangers” and “mailers” to assist a Mortgagee in determining if a property is occupied or vacant. These tools ask the occupant to contact the Mortgagee to confirm the occupancy status of the property. If the occupant fails to respond within the prescribed time period, the mortgagee is required to conduct a prompt visual inspection of the property.

To avoid unnecessary inspections, occupants should be allowed a minimum of five business days from the date of the mailing or other contact to respond to the Mortgagee. Reimbursement for an occupancy inspection may be denied by the Department if sufficient time is not provided for occupant response.

Lock Change/Securing

The securing procedures listed in this Mortgagee Letter may be performed without prior approval from the Management and Marketing contractor if all individual expenses remain within the maximum cost allowable for that particular service.

Pest Infestation

This Mortgagee Letter clarifies guidance for the use of over-the-counter products for pest infestations. If, on the initial inspection, the Mortgagee finds the property to be infested with pests (e.g., roaches, water bugs, mice, rats) that constitute a health or safety hazard or prevent clean-out or debris removal, the Mortgagee should have the property fumigated by a Pest Control Service, licensed to conduct such business in the area where the property is located. Insects or vermin that can safely be removed with over-the-counter products do not require professional extermination. A flea infestation does not require photographic evidence.

Over-allowable Request Detail

When the cost of work to be completed exceeds the scheduled amount for an individual item, the Mortgagee must request an over-allowable. All requests to exceed cost limits should include amounts spent to-date on the property so the M&M contractor can determine if the request exceeds the overall cap for preservation and protection and/or if those additional costs are feasible.

Electronic Submission of Over-allowable Requests

Concurrent with the effective date of this Mortgagee Letter, HUD will accept submission of Form HUD-50002, Request to Exceed Cost Limit for Preservation and Protection by mail, fax or electronic (e-mail) formats and will allow M&M contractors to communicate approval or denial of the request by return email. In the appropriate signature box(s) on the form, the Mortgagee and the M&M contractor shall put the name and contact phone number of the individual authorized to act on behalf of the organization. An approved or denied copy of the request and supporting documentation must be maintained in the claim review file.

Limitations on Second Bid Requests

With the exception of debris removal, Mortgagees are not required to obtain a second bid for an over-allowable expense if the first bid for the item/service is \$250 or less.

When the M&M requests second or revised bids, the M&M contractor will provide a price-range of usual and customary costs, for similar work. The Mortgagee may request that the M&M provide contact information for those service provider/providers who can do the work for an amount within the usual and customary price-range. The M&M is familiar with these costs and is required to maintain such records therefore the price-range information should be provided to the mortgagee upon request.

Upon receipt of two bids for the same scope of work, M&M contractors may not assume that a bid is non-competitive, deny bid approval or request a third bid, solely on the basis that the first and second bids are too close in price. Conversely, Mortgagees should not submit bids that are far apart in price. If bids are far apart in price the Mortgagee must reconcile the price difference prior to submission to ensure that the bids are based on the same scope of work. If the bids are based upon the same scope of work, the M&M contractor may request a revised or third bid or provide a not-to-exceed amount that would be acceptable for completion of the work.

Repair to Heating Systems

Mortgagee Letter 2007-03 provides in Attachment 7, Section I-B, that if a major repair or replacement is needed to make the heating system operational, the Mortgagee should contact the M&M contractor for instruction. This language is revised to state, “When there is a jurisdictional requirement for heat to remain on (see local variations in the attachment) and a repair or replacement is needed to make the heating system operational, the Mortgagee should contact the M&M contractor for instructions when the costs of repair is greater than \$250.00.” Mortgagees are required to repair heating systems during winterization season only when there is a jurisdictional requirement for the heat to remain on.

Winterization

Mortgagee Letter 2007-03, Attachment 7, required that plumbing and heating systems had to be thoroughly drained. That language has been revised to state that plumbing and heating systems must be drained in a manner sufficient to prevent freeze and/or other damage. Demand letters related to winterization will not be issued unless actual damage has occurred.

Permits and Vacant Property Registration Fees

Each Mortgagee and/or field service provider should be familiar with the state and/or jurisdictional requirements related to city ordinances or local law. If and when a building permit is required by local law prior to performing preservation and protection services, then the Mortgagee must obtain a permit. If code violations are related to health and safety and/or cost to resolve the violation is less than \$250.00 the mortgagee shall complete the work without prior approval from the M&M contractor unless the repair causes mortgagee to exceed the overall cap for preservation and protection. Otherwise the mortgagee shall contact the M&M contractor. If the cost for vacant property registration is less than \$250.00 the mortgagee shall pay the fee without prior M&M approval and provide documentation of the same in the claim review file. The fee for vacant property registration should be included as a P&P expense on the claim form HUD-27011.

Additional Editorial Revisions

- Mortgagee Responsibilities, Item II, paragraph 4 added the words ...performing or claiming preservation and protection services after the deed has been recorded.
- Attachment 3, Item I-6, replace the word “should” with “must.”
- Attachment 3, Item II, a distinction is made between pre and post foreclosure requirements and that doors or windows are not to be braced or nailed shut.
- Attachment 3, Item IV, paragraph 2, 3rd sentence, inserted the word “labeled”
- Attachment 3, Item V, Secure One Door was changed to Secure (Per Lock)
- Attachment 4, paragraph 2, added “Eliminate any health and safety hazard caused by any protruding bolts used to secure boarding.”
- Attachment 5, Item V-A, paragraph 2, remove the word “be” from the last sentence.
- Attachment 5, Item VI, paragraph 2, removed the provision for a signature on a bid.
- Attachment 6, Yard Maintenance Cost Schedule. Revised the fee for re-cut of yards with 10,001 sq. ft. - 15,000 sq. ft., in the state of Arkansas, from \$60 to \$85.

- Attachment 7, Item I-B, at the beginning of the paragraph, we added “When heat is required to remain on and a...”.
- Attachment 7, Item III, paragraph 2 removed the words “thorough and complete draining” and revised to state, “drained in a manner sufficient to prevent freeze and/or damage...”
- Attachment 7, Item III A-B-C, removed the word “thoroughly” as pertaining to draining of systems and revised to state, “drained in a manner sufficient to prevent freeze and/or damage.”
- Attachment 7, Variations Section, added an item to leave the heat on in condominiums and townhouses in Colorado.

If you have any questions concerning this Mortgagee Letter, please contact James R. McGee of the Asset Management and Disposition Division at (202) 402-2287.

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing -
Federal Housing Commissioner

[Attachment](#)