Section C. Title Exceptions

Overview

In This Section

This section contains the topics listed in the table below.

1. General Information on Title Exceptions

Introduction

This topic contains general information on title exceptions, including

- the FHA policy on objections to title for customary easements, restrictions, and encroachments, and
- correcting property address discrepancies.

Change Date

December 23, 2010

4155.2 6.C.1.a FHA Policy on Objections to Title for Customary Easements, Restrictions and Encroachments

Lenders should ensure that any conditions of title to property are acceptable to the FHA. FHA will not object to title because of any common and customary easements, restrictions, encroachments, and other title matters listed in the General Waiver described in 24 CFR 203.389. Such matters are considered minor, and have no measurable adverse effect on value. For this reason

- FHA will not object to title in the event the property is conveyed or the mortgage is assigned to FHA
- it is unnecessary to contact FHA after endorsement to report the existence of title objections and other matters within the scope of the General Waiver
- the lender may rely on the opinion of its attorney concerning what is common and customary, rather than obtain a determination from FHA, and
- if a matter of title does not fall under the General Waiver, the lender must obtain a specific waiver of the defect from the appropriate HOC.

Reference: For more information on lender responsibilities regarding title objections, see HUD 4155.2 6.A.1.h.

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1. General Information on Title Exceptions, Continued

4155.2 6.C.1.b Correcting Property Address Discrepancies

To correct the property address after insurance endorsement, the lender must

- advise the Homeownership Center (HOC) that the street address shown on the application is incorrect, and
- provide the correct address.

The HOC, in all instances, must determine that the underwriting conclusions were based on the correct property. If the change of address is acceptable, the appropriate HOC signs a statement on the lender's original letter, stating that an objection to title *will not* be made because of the change of street address, and returns the letter to the lender.

Note: The HOC may need to recall the endorsed uniform case binder from Central Records.

2. Waiver of Objections to Title

Introduction

This topic contains information on requests for waivers of objections to title, including

- General Waiver for title conditions
- processing requests for waivers of objection to title
- title exceptions not covered by the General Waiver, and
- processing group title exceptions.

Change Date

December 23, 2010

4155.2 6.C.2.a General Waiver for Title Conditions

Under 24 CFR 203.389, the General Waiver serves to waive objection to title for customary easements, restrictions and encroachments, or to several specific title objections listed below. Lenders will not request waivers for exceptions specifically noted in this provision of the regulations. The General Waiver includes easements for

- public utilities
- party walls
- driveways, and
- encroachments on adjoining property by hedges, or wooden or wire fences belonging to the subject property.

Note: Refer to the Code of Federal Regulations (CFR) for the complete list.

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2. Waiver of Objections to Title, Continued

4155.2 6.C.2.b Processing Requests for Waivers of Objection to Title

Requests for waivers of objection to title are processed by the appropriate Homeownership Center (HOC) as described in the table below.

If the request for waiver of objection to title is received …	Then the appropriate HOC …
before insurance endorsement	reviews and processes the request to the extent necessary
after insurance endorsement	• reviews the request to ensure that it is within the scope of the General Waiver • stamps the request "*Covered by the General Waiver, 24 CFR …*", and • returns the request to the lender.

Note: No records of requests for waivers of objection to title are kept in the HOC, except for an appropriate notation made on the application, and the underwriting report, if the matter is considered prior to insurance endorsement.

Reference: For more information on title exception to correct discrepancies in property address, see HUD 4155.2 6.C.1.b

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2. Waiver of Objections to Title, Continued

4155.2 6.C.2.c Title Exceptions not Covered by the General Waiver

Waiver requests not covered by the General Waiver are classified into three groups, as described in the table below.

Request Group	Description
Group 1	Requests involving minor defects that do not impair marketability and value for residential purposes.
Group 2	Requests involving defects having a measurable affect on marketability and value. The existence of title defects in Group 2 does not render the title unmarketable, but may materially affect the value of the property and/or habitability of the home.
Group 3	Requests involving defects in Group 3 are of a character or magnitude that FHA would not accept the title in the event of an insurance claim.

4155.2 6.C.2.d Processing Group Title Exceptions

The table below contains policies for processing title exceptions for Groups 1, 2, and 3.

Group	Title Exception Processing Policy
Group 1	A Direct Endorsement (DE) lender may process and accept Group 1 minor title exceptions with FHA approval. Non-DE lenders must submit a waiver request to the appropriate HOC for review and approval. The HOC notifies the lender in writing when the request is approved.

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2. Waiver of Objections to Title, Continued

4155.2 6.C.2.d Processing Group Title Exceptions (continued)

Group	Title Exception Processing Policy
Group 2	For Group 2 title exceptions, the DE lender submits the waiver request and documentation to the HOC for review. Generally, it is not necessary for the HOC to review the insured uniform case binder. When necessary, the HOC staff • consults the General Counsel's office for legal review of the request, and • notifies the lender in writing of the approval or denial of the request.
Group 3	Waivers for Group 3 title exceptions are not given.