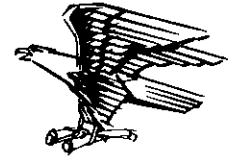


AMERICAN  
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January 5, 2009

The Honorable Brian D. Montgomery  
Federal Housing Commissioner  
451 Seventh Street, SW  
Room, 9100  
Washington, DC 20410

Dear Commissioner Montgomery,

I am writing today on behalf of the 3,000 member companies of the American Land Title Association (ALTA), whose title insurance underwriters, title agents, independent abstracters, title searchers and attorneys conduct title searches and examinations, issue insurance protecting real property owners and mortgage lenders against losses from defects in titles, and conduct closings. ALTA member companies employ over 100,000 people and operate in every county in the country.

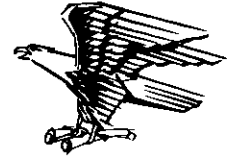
It has come to our attention that HUD contracts with specific “preferred providers” of title and closing services for HUD owned properties, including title examination and insurance. We are concerned that this practice constitutes direction of title services which would be a violation of the Real Estate Settlement Procedures Act (RESPA). Specifically, Section 9 of RESPA prohibits the seller of property from requiring any particular title company:

(a) No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require directly or indirectly, as a condition to selling the property that title insurance covering the property be purchased by the buyer from any particular title company. (Pub. L. 93-533, Sec. 9, Dec. 22, 1974, 88 Stat. 1728.)

The HUD instructions presently in place for closing HUD owned properties provide the following direction regarding the selection of closing agents (*italics added*):

“Once the contract is ratified, a purchaser has 60 days to close the property; however closings may occur in less than 60 days. A closing date must be scheduled *with the HUD-designated Closing Agent*. HUD has appointed closing agents on a separate contract to act as their representative in the closing. HUD-designated Closing Agents are assigned HUD properties by county. Each property is assigned a closing agent and the property must close with the designated closing agent present. Third-party closing agents may also

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be used but the closing date must be scheduled with the HUD-designated closing agent and they must be present at the closing. *Any additional cost for using a third-party closing agent must be paid by the purchaser.*" (HUD Notice: Closing Costs Paid By US Department of Housing and Urban Development)

We have learned of instances where the HUD appointed agent has sent purchasers a letter to warn them that they will be responsible for additional costs and delays in closing if the purchasers choose their own title insurance agent or closer. While HUD does not explicitly ban consumers from choosing their own closing agents, the fact that HUD requires them to pay twice for the same service creates such an enormous disincentive that the effect is the same. As a practical matter, HUD is directing title services and is therefore violating RESPA. Given HUD's example, it is not surprising that many lenders have also assumed this practice on their bank owned real estate.

It is hard to reconcile these facts given HUD's stated goal in its newly issued RESPA regulations of transparency, clarity and increased shopping opportunities for consumers. We urge you to review FHA practices and to open up the markets to the competition that can be produced by allowing title insurers and closers to freely participate in the HUD owned property market.

I look forward to the opportunity to meet with you to discuss this further, and hope that you can address this issue in a positive manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Pfothenhauer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kurt Pfothenhauer  
Chief Executive Officer