



OFFICE OF GENERAL COUNSEL

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

FEB 21 2018

F. Scott Jackson
Jackson Tidus
2030 Main Street, 12th Floor
Irvine, California 92614

SUBJECT: Response to the Inquiry from the Home(ful) Foundation Regarding
Compliance with 24 CFR § 203.41

Dear Mr. Jackson:

We have received your letter to Mr. Brian Montgomery, requesting that he execute a letter indicating that HUD-FHA does not interpret the Home(ful) Notice as constituting a legal restriction on conveyance. Although Mr. Montgomery has been nominated to fill the office of Assistant Secretary for Housing-Federal Housing Commissioner, he awaits confirmation from the Senate before assuming that role. I am therefore responding on behalf of the Department.

As you are aware, HUD's regulations at 24 CFR § 203.41 require all FHA-insured mortgages to be freely transferrable without any prohibited restrictions on conveyance. This regulation, as modified by the Housing Opportunity Through Modernization Act of 2016 ("HOTMA"), lists the types of restrictions that are prohibited, including provisions that could void a transfer of the property and certain provisions that would require the payment of a fee upon transfer of the property. When a borrower wishes to secure FHA-insured financing for a home purchase, an FHA-approved lender must review the property, borrower, and the transaction to determine eligibility for insurance in accordance with HUD's regulations, including § 203.41, and FHA's requirements.

While HUD does not approve programs such as the Home(ful) Foundation's Voluntary Donation of Endowment Contribution program ("contribution program"), we have reviewed the information provided to us to date. As we understand the current design of the contribution program based on the documents provided to us on September 18, 2017, the contribution provisions, which could implicate the provisions of § 203.41 if the restrictions imposed were mandatory, are in fact voluntary in nature and permit the property owner to opt out at any time. Should you be called upon by an FHA-approved lender to demonstrate compliance with § 203.41, we would suggest highlighting the voluntary nature of the provisions in contrast with the specific language concerning prohibited restrictions currently contained in the regulations at § 203.41, so that the lender may make its own informed decision regarding compliance with applicable FHA regulations.

Thank you for your interest in HUD's programs. If you have any further questions, please contact me at (202)-402-3826.

Sincerely,

Amy L. Brown

Amy L. Brown
Acting Associate General Counsel for
Insured Housing