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21 July 05

Mr. Eric Axelrod
Environmental Housing Officer
Office of Housing
Dept of Housing and Urban Development
Washington, DC

Via fax to 220-708-2387

Dear Mr. Axelrod,

I appreciate your taking time to consider the impact the current HUD lava hazard zone policy is having on the housing situation here on the Big Island of Hawaii. Beginning in 1974, following an initial delineation of lava threat, HUD established (according to my research) a formal policy which excluded lava zones 1 & 2 (then zones E & F). It was never enforced. Consequently, there was little impact. In fact, USDA participated fully in providing direct and subsidized loans throughout the area. As I am sure you are aware, when Kilauea again became active in 1983, and a new study entitled "Volcanic and Seismic Hazards on the Island of Hawaii" was commissioned (1990, Christina Heliker, USGS). The study included a detailed lava hazard zone delineation and map. In 1991, following losses along the East rift zone, insurance became virtually unavailable thereby restricting mortgage loans in the area. Lenders were willing to make the loans but insurance coverage was unavailable. In 1991, just prior to Hurricane Iniki, Act 284, established the Hawaii Property Insurance Act (HPIA) which provided insurance coverage throughout the area. Being so closely associated in time with Iniki (1992), many mistakenly assumed HPIA was instituted as a result of the hurricane. When insurance again became readily available, loan programs were completely reinstated.

The Heliker study was later updated in 1994. Following this update, HUD reiterated it's policy that "certain areas are too hazardous and therefore unacceptable for HUD programs" (see <http://hvo.usgs.gov/volcanowatch/1994>). For some time, there was little impact until, during a State lenders conference in 2003, Fannie Mae announced that lenders were supposed to be following the 1994 HUD standards which established a prohibition against lending in lava zones 1 & 2. Prior to that time, lava zone delineations were rarely mentioned as part of most appraisals. Immediately following the 2003 meeting, Bank of Hawaii, American Savings, Bank of America and Countrywide and for the most part, First Hawaiian Bank, all adopted policies excluding the two high risk areas. Loans have occasionally been done on a case-by-case basis where a lender is willing to make a portfolio or un-saleable loan with increased pricing for the consumer. At this point, to my knowledge, we are left with only 2 mainstream lenders willing to

loan within lava zones 1 & 2 (Chase Bank and Wells Fargo). Most buyers are forced to seek loans from "marginal" lenders with whom there is little track record. Buyers must normally pay a premium for loans which are now considered "high risk". Lenders charge the premium because they can. There seems to be no other reason given the fact that since 1983, only 183 (an average of only 8 per year) homes have been lost to lava flow. I do not believe HPIA has ever paid a single lava related claim. Unlike areas threatened by hurricanes, tsunamis, earthquakes, floods, tornadoes and even heat waves, there has never been loss of life resulting from residency in these areas. Given this perspective, the current HUD policy seems to unfairly classify these areas. The reality is that every location has its attendant risk. The current policy effectively causes undue hardship on innocent but otherwise qualified buyers.

The difference in lava flow and other natural disasters is, in fact, its predictability. We assume there could be an increased risk in these areas and we insure accordingly. Other natural disasters are completely unpredictable so losses are insured randomly. Losses in lava zones 1 & 2 are insurable; hence there is no risk to the lender. The policy seems even more difficult to justify given there is no historical loss of life.

The reality of lava zones on the ground is, in fact, very different from the perceptions created by a written report or simple Geological map. There are thousands of homes as well as large subdivisions located and thriving within both lava hazard zones. There is an entire town with a Federal post office, police station, fire station, a new 10,000 sf. hardware store, shopping center and supermarket. It is, in fact, a thriving, growth area. It's impossible to tell when you leave one lava hazard zone and travel to a "safer" zone, hence making it possible to mis-categorize homes or entire areas. The affected land area is approximately half the size of the Island of Oahu. From an East Coast perspective it is half the size of Rhode Island. It's rather expansive. The sheer size coupled with land availability make these the most affordable lands in the state. Affordability is not necessarily related or influenced by lava risk.

It is my understanding that, absent HUD and Fannie Mac directives, most lenders would gladly loan in these loans. Investors are fully protected, demand is high and exposure is generally less per unit, therefore, loans in zones 1 & 2 should be very attractive. Unfortunately, at this point, most lenders indicate that their hands are basically tied.

Because so many homes and potential buyers are affected by the policy, it is my hope that HUD will soften its policy so that lenders will be encouraged to reconsider their internal policies. It seems unfair that such a severe policy applies to this area when the same harsh policy doesn't seem to extend to hurricane prone areas, earthquake prone areas and the like. Buyers will continue to be "forced" to buy in that area. They have no choice. In the entire State, it's often the only place many can afford. They will buy there anyway. It seems wrong to force them to pay a premium for their loans.

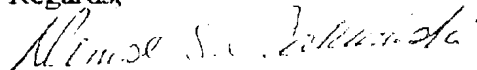
The most unfortunate result of having so few lenders, many with whom we have no experience, it is that buyers are sometime forced endure the entire loan process only to find that their lender "disappears" (changes their lending policies) prior to closing. The

attitude toward this area is so bad that our local (Honolulu) FHA office has a prohibition on catchment water systems even though FHA guidelines allow them. While not directly related to the lava exclusion, it underscores the mentality that seems to extend from Honolulu to Washington that (especially) lower Puna is "third world". This is certainly not the case.

It is my hope that buyers in lava zones can once again be afforded access to a full menu of conventional loans in a competitive lending environment. Interestingly, even our Mayor, who was for many years was the Director of Civil Defense, is comfortable enough to own a home in this area. The HUD directive effectively limits development. This is more appropriately a land use decision which should be made at the local level rather than as a matter of National policy. Those on the ground are really in the best position to best weigh the pros and cons. This was so noted at the State level as part of the HPIA House Concurrent Resolution (HCR No. 230) which went on to note that "establishment of new policies to restrict the settlement of areas deemed to be of high risk would result in profound social, cultural and economic impact(s)". The reality is that current HUD policy seems to unfairly restricts home ownership for thousands for whom home-ownership in these areas is their only hope for the future. Punishing them for not being able to afford to purchase elsewhere seems unnecessary. Like every homeowner, they should be able to make an informed decision and assume the risk should they choose to do so.

Even if you have been to the Big Island before, I invite you to visit. Perhaps it's possible to add a different, more personal dimension to this issue. Mahalo again for taking time to consider what is a very real and important issue to the (especially) the local people of the Island of Hawaii.

Regards,



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cf: Congressman Ed Case