

**UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
BISMARCK, ND 58502**

August 16, 2010

SUBJECT: Special Assessments
502 Direct Loans

TO: All Rural Development Field Offices in North Dakota

PURPOSE/INTENDED OUTCOME:

The purpose of this North Dakota Administrative Notice (AN) is to provide guidance for the consideration of Special Assessments in processing 502 Direct Single Family Housing loans.

COMPARISON WITH PREVIOUS AN:

No previous state AN has been issued on this subject.

IMPLEMENTATION/RESPONSIBILITIES:

The 502 direct loan program is unique to the lending industry. Eligibility is limited to very-low and low income families. The program provides for a loan to value in excess of 100%, no down payment requirements, no mortgage insurance premiums and payment assistance.

Rural Development is responsible to provide the borrowers receiving a 502 direct loan every opportunity to become successful homeowners. Outstanding special assessments may have a major impact on this effort. Unpaid special assessments have the potential to substantially increase monthly borrow escrow payments for many years.

According to HB-1-3550 paragraph 5.10: "Generally, there should be no non-Agency liens on the property at the time of or immediately after closing, unless they are part of a formal leveraging strategy, or the Agency loan is for essential repairs and a senior lien secures an affordable non-Agency loan. However, the Loan Originator may accept prior or junior liens as long as: (1) the lien will not interfere with the purpose or repayment of the Agency loan; (2) the total value of all liens on the property is less than or equal to the property's market value; and (3) the prior lien does not contain provisions that may jeopardize the Agency's security position or the applicant's ability to repay the loan."

EXPIRATION DATE:
August 31, 2011

FILING INSTRUCTIONS
Following ND State Supplement
Appendix 7 of HB-1-3550

Special Assessments are considered a prior lien. Unpaid special assessments must be considered when processing 502 Direct Single Family Housing loans.

It is in the best interest of the borrower and the Government that all special assessments be paid in full and be included in the loan at closing. It is highly recommended that Loan Originators include payment of special assessments with loan funds.

The Single Family Residential Appraisal Description of Agreement (Statement of Work) states "All appraisals will contain a statement indicating whether the appraised market value has been determined based on all special assessments being paid in full by the seller or being assumed by the buyer."

For special assessments, whether they are being paid in full or are being assumed, the Loan Originator must carefully review the Appraisers consideration of them on the appraisal. The total amount of unpaid special assessments, not just annual installments, must be considered in the appraised market value.

The appraiser's consideration of special assessments and their effect on the final appraised market value must be clearly stated on the appraisal without any ambiguity. The appraiser's consideration of special assessments should be found in the Summary of Sales Comparison Approach section of the appraisal. The Loan Originator must review and completely document how the appraiser considered and adjusted for special assessments and that the assumption of the special assessments will not jeopardize the repayment of the Agency indebtedness.

Except for the appraisal fee, tax service fee and initial contribution to escrow, a 502 direct loan which, includes all costs and contributions, cannot exceed the lesser of the area loan limit or the appraised market value. The cost will include all unpaid special assessments.

Special assessments must be considered as a cash equivalency. Example is as follows:

- Purchase Agreement is \$147,500. Appraised Market Value is \$147,500. Special Assessments of \$5000 are being paid by the seller at closing. The loan amount of \$147,500 is acceptable as it does not exceed the Appraised Market Value or the Area Loan Limit.
- Purchase Agreement is \$147,500. Appraised Market Value is \$147,500. Special Assessments of \$5000 are being assumed. The loan amount is not acceptable as it exceeds the Appraised Market Value and the Area Loan Limit when the assumed special assessments are considered. Maximum loan amount would be \$142,500. The loan must be reduced by the total amount of the assumed specials.



JASPER SCHNEIDER
State Director