

New FHA/HUD Condominium Guidelines

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Why is This Topic Important?

- Past: FHA <10% of lending
- Present/Future: Estimated 40-50% of lending
- Involves refis, as well as new sales
- Involves established, as well as new and conversion condominiums

Sources

- HUD Mortgagee Letter 2009-19
 - Condominium Approval Process – Single Family Housing (June 12, 2009)
- HUD Mortgagee Letter 2009-46 A
 - Temporary Guidance for Condominium Policy (November 6, 2009)
- HUD Mortgagee Letter 2009-46 B
 - Condominium Approval Process – Single Family Housing (November 6, 2009)
- <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>

Eligibility

- Eligible Projects:
 - Condo project has been declared and exists in full compliance with applicable laws and regulations
- Ineligible Projects:
 - Condominium Hotel or “Condotels”
 - Timeshares or segmented ownership projects
 - Houseboat projects
 - Multi-dwelling unit condos
 - Not deemed to be used primarily as residential
- Not required for Site Condominiums

“Final” Revised Guidelines

- No longer “spot loan” approval process – replaced with more comprehensive approval process for condos
 - Housing and Economic Recovery Act of 2008
- New regs took effect **12/7/09**
 - Temporary “grandfathering” of certain provisions through December 31, 2010 (Mortgage Letter 2009-46 A)
- Approval processing options:
 - HUD Review and Approval Process (HRAP)
 - Direct Endorsement Lender Review and Approval Process (DELRAP)

“Final” Revised Guidelines

- Projects must consist of 2 or more units
- Must have hazard and liability insurance (flood and fidelity, when appropriate)
- 25% cap on total floor area used for commercial space
- Cap of 15% total units can be in arrears (more than 30 days past due) of assessments
- At least 50% of the total units must be sold prior to an endorsement of a mortgage on any unit
- Cap of 10% of the units owned by single individual/entity

“Final” Revised Guidelines

- At least 50% of the units must be owner-occupied or sold to owners who intend to occupy the units
- 30% cap on FHA loans per project
- Project approvals will expire every two years requiring re-approval
- Turnover must occur no later than the later of: (a) 3 years following first unit conveyance; (b) time established under state law; or (3) 120 days > 75% of units are conveyed.
- Environmental reviews required for proposed or under construction projects, unless DELRAP

“Final” Revised Guidelines

- A current reserve study must be performed (not more than 12 months old)
- Budget review including determination of “adequacy:”
 - Includes allocations/line items to ensure sufficient funds are available to maintain and preserve all amenities and features unique to the condo; and
 - *Provides for the funding of replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10% of the budget, and*
 - Provides adequate funding for insurance coverage and deductibles (as further req'd under the guidelines).

Temporary or “Grandfather” Provisions

- Provisions (except for “Spot Loan”) extend through 12/31/10
- “Spot Loan” approval process was extended through 1/31/10
- FHA concentration increased temporarily to 50%
 - Up to 100% threshold for certain projects

Project Approval Items

- All Condominium Legal Documents
- Recorded Plat Map indicating Legal Description
- Recorded Covenants, Conditions and Restrictions (CC&R's)
- Signed and Adopted Bylaws
- Articles of Incorporation filed with the State
- Recorded Condominium Site Plans
- Plan or Evidence of Transfer of Control
- Proposed or Actual Budget

Project Approval Items

- Reserve Study
- Management Agreement, if applicable
- Equal Employment Opportunity Certificate (Form HUD 92010)
- Affirmative Fair Housing Marketing Plan or Voluntary Affirmative Marketing Agreement (VAMA)
- FEMA Flood Map
- Estimated Construction Completion Date
- Outstanding or Pending Litigation Analysis
- Pending Special Assessment Analysis

Recertification

- Condo Project Approvals expire every 2 years
- Further participation will require recertification:
 - Still in compliance with HUD's owner-occupancy req't; and
 - “No conditions currently exist which would present an unacceptable risk to FHA.”
 - Pending special assessments;
 - Pending legal actions against the association or its D&Os; and
 - Adequate hazard, liability and, when applicable, flood insurance coverage.

Questions?



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