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Federal Housing Authority condominium guidelines update

April 03, 2011 - Owners Developers & Managers

Leasing restrictions have been one area of the Federal Housing Authority (FHA) condominium guidelines that has caused problems for condominium associations seeking to get FHA approvals. The Community Associations Institute (CAI) brought this issue to FHA's attention and petitioned FHA to review these criteria. On March 18th, FHA issued a waiver that will provide greater flexibility on leasing restrictions under the FHA condominium insurance program. This means that many condominium associations whose FHA approval was rejected due to rental restrictions may now qualify under the FHA waiver.

The FHA waiver will be effective for one year and will apply to leasing restrictions where the condominium project's declaration, covenants, master deed, bylaws, or other pertinent documents contain provisions that restrict a unit owner's ability to lease their unit. FHA has announced that the waiver will apply to the following types of rental restrictions requirements:

- *That all leases be in writing and subject to the declaration and bylaws of the condominium project.
- *That the condominium association receives a copy of the sublease or rental agreement.
- *That the condominium may not require a prospective tenant be approved by the association, including, but not limited to, meeting creditworthy standards.
- *That the association may request the names of all tenants, including the tenants' family members.
- *That unit owners are prohibited from leasing their units for less than 30 days.
- *That associations may establish maximum lease terms (e.g., no more than 6 months, 12 months, etc).
- *A limit imposed by the association on the total number of rental units allowed, provided the percentage of rentals do not exceed the current FHA owner occupancy requirement of at least 50 percent owner occupied units.

Prior to the waiver, many associations were disqualified from FHA financing due to rental restrictions. This change was sought by CAI in a meeting with FHA in January of 2011. This added flexibility removes one of the more frustrating aspects of the FHA guidelines that required condominium associations to limit rentals of units, but disqualified them if they took any proactive steps to meet this requirement.

The waiver will be effective until March 18th, 2012.

CAI continues to voice its concerns with the lack of transparency and public notice by FHA in developing its condominium guidelines. Any questions or concerns related to the FHA Condo program, please send them to government@caionline.org with the subject line of FHA Guidelines.

FHA Condominium Update Seminar: April 28th

Federal Housing Authority (FHA) mortgages for condominiums play an important role in making home ownership and refinancing affordable for borrowers, including first time buyers. In this

economic downturn, the demand for FHA loan programs has soared as credit has become more difficult to obtain. In 2008, the FHA began a major shift in its loan underwriting requirements and procedures for condominiums. The April 28th program, hosted by the New England Chapter of CAI, will address these changes and where the FHA stands today.

The session will review the condominium requirements a year after the elimination of spot loan approvals and also address insurance requirements as well as the project submission process (DELRAP vs. HRAP). New requirements including the recent waiver of leasing restrictions (see related story above) will be discussed in detail.

In addition to FHA issues, speakers will also address the stricter Fannie Mae guidelines imposed on condominium lending and will review those requirements as they relate to established condominiums. Many other Fannie Mae issues and concerns including insurance requirements, ineligible projects and lender affidavits will also be discussed.

Speakers:

*Stephen Marcus, Esq., Marcus, Errico, Emmer & Brooks, P.C.

Attorney Marcus is a partner in the law firm of Marcus, Errico, Emmer & Brooks. He, along with other CAI members, has met with FHA officials in Washington to discuss the negative impact of these and other guidelines on condominium lending around the country and will share his first hand knowledge and information regarding those discussions and the direction of the FHA program.

*Patricia Raymo, Mortgage Masters Inc.

Raymo is vice president and chief operating officer for Mortgage Masters Inc. and has extensive experience with FHA and Fannie Mae condominium lending guidelines in New England.

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