CAI Fannie Mae and Freddie Mac release lender bulletins for condo and coop mortgages - by Dawn Bauman

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Within the past few weeks, both Fannie Mae and Freddie Mac released lender bulletins as a step toward making temporary requirements permanent. The temporary requirements addressed issues of structural safety in condominium and housing cooperative buildings in response to the Champlain Towers South condominium collapse.

Lender bulletins are the prescriptive requirements mortgage lenders must comply with to have their loans backed or purchased by Fannie Mae or Freddie Mac. As of 2023, the National Association of Realtors says Fannie Mae and Freddie Mac support around 70% of the mortgage market. This means that most conventional loans offered by private lenders end up being backed or purchased by one of the two entities. Most lenders offering mortgages to condominiums will need to comply with Fannie Mae and Freddie Mac requirements.

According to the Federal Housing Finance Agency (FHFA), the conservator of Fannie Mae and Freddie Mac, these lender bulletins are the first step toward implementing permanent lender requirements. The next steps will include stakeholder meetings with lenders, realtors, engineers, reserve professionals, attorneys, and other parties.

The recent lender bulletins purport to clarify definitions regarding critical structural repairs, deferred maintenance, reserve studies and funding, pending litigation, and more. While definitions have been added, it is clear these explanations are leading to stiffer requirements for condominium and housing cooperatives.

CAI continues to work collaboratively with the Community Home Lenders of America and the National Association of Realtors to urge changes to the requirements before they become final and seek greater transparency in the process.

The Fannie Mae and Freddie Mac “questionnaire” that many mortgage lenders use to populate their questionnaires has not been changed or updated at this point.

Below are highlights of the lender bulletins:

• Special Assessments – must be reviewed by lenders to determine the purpose of the assessment, timing of execution of the assessment, original amount, expected date of being paid in full, and whether the assessment is related to a critical repair. Buildings with special assessments will certainly be deemed ineligible.

• Inspection reports – if there is a structural or mechanical inspection report completed within the last three years, the lender must obtain a copy and review the report. If the report indicates an evacuation order, unaddressed critical repairs, or other habitability concerns, the project building/association will be deemed ineligible.

• Reserve study and funding plans – must comply with strict requirements including updates every three years. Furthermore, the reserve study must comment favorably on the project's age, estimated remaining life, structural integrity, and the replacement of major components. This will be problematic for almost all condominium and cooperative buildings as a reserve study is a budgeting tool, not an inspection report that will provide comments on structural integrity.

• Projects in litigation – now include alternative dispute resolution (ADR) or litigation proceedings – unless the ADR proceeding involves only minor matters that do not affect the safety, structural soundness, functional use or habitability of the project. The expansion of this definition will have unintended consequences for buildings in litigation that are completely safe.

• Reciprocity – Freddie Mac may rely on Fannie Mae's Condo Manager list of ineligible projects and both Fannie Mae and Freddie Mac can look to condominium associations certified by FHFA. Further, clear databases are being created to track eligibility. CAI continues to work with Fannie Mae, Freddie Mac, FHFA, and members of Congress to urge changes that will keep buildings safe for owners and maintain access to credit for condominium homebuyers/sellers.

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