

NEW FHA CERTIFICATION RULES: Will Your Association be Approved?

by David J. McGee, Esq., Thomsen Nybeck

The old adage of “don’t kick a man when he is down” is apt when considering the FHA’s new certification rules. As a reaction to concerns about underwriting lapses that played a part in the rash of foreclosures, the FHA has adopted, and is slowly implementing, rules involving condominiums (this term includes most community associations). These rules are intended to address perceived concerns with condominium associations’ operations, and to protect federal money used to insure loans. The most significant change, which at the time of the writing of this article is scheduled to be implemented on February 1, 2010, is the elimination of “spot approvals.” The result of this change is that for a potential buyer to get an FHA backed loan, the Association must be FHA certified.

Why is FHA certification important to associations?

First, the condominium market is still “soft,” meaning there are not as many buyers out in the marketplace looking for condominiums. However, some of those active buyers plan on using FHA backed loans since there are many benefits, including low down payments. Therefore, if the

condominium is not FHA certified, it has just reduced the pool of potential buyers by the percentage of individuals that would want to use an FHA backed loan.

Second, FHA backed loans are gaining in popularity. In 2007, FHA backed loans only accounted for approximately 5% of all mortgages. That number increased to 20% in 2008. Therefore, if the association does not act, it may find itself out of the running for this pool of potential buyers.

What does FHA certification entail?

There are a number of conditions the association needs to comply with to be FHA certified, but a few of the more significant conditions are as follows:

- The association can have no more than 15% of its units in arrears with their association assessments. Arrears is considered more than 30 days past due.
- The association’s budget must be adequate, and must include allocations/line items to ensure sufficient funds are available to maintain and preserve all amenities and features unique to the condominium project.
- The budget must provide for the funding of replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10% of the budget.
- The association must have hazard insurance under a “master or blanket” property insurance policy in an amount equal to 100% of the current replacement costs of the condominium. If the homeowner association does not maintain 100% coverage, the unit owner may not obtain “gap” coverage to meet this FHA requirement. In cases

FHA Certification continued on page 20



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Rebooting Your Association

by Linda Wilkins, AMS, CMCA, ACCAM, RPA, PCAM, Litehouse Management

There are just times in this modern environment when all else fails and we have to shut down and reboot. We reboot our computer systems. We reboot our phone systems. Perhaps, you are focused on rebooting your life with New Year's Resolutions at this time of year. It is not uncommon to have to reboot our diets or our exercise programs periodically to jump start our physical goals.

This might be a good time to reboot your association! Just like when you reboot

your computer, you still keep all your work and history. It is just an opportunity to start fresh! Clear the slate! Call the board and schedule a work session. Bring your ideas for the association. It will be a time to idealize where you see the association going. No idea is too small or too outlandish.

Take a look at how you, as a Board of Directors, are complying with your governing documents. How do you believe you did during the last year, and where

you would like to improve? Ask yourselves questions that could determine the overall health of the association, such as:

- How well maintained are the common areas?
- What types of repair and maintenance schedules exist?
- Do we need to reprioritize?
- Is the association responsive to the homeowners?
- Where could we improve?

Rebooting continued on page 23

FHA CERTIFICATION *continued from page 19*

where the master policy does not include interior unit coverage, including replacement of interior improvements and betterment coverage to insure improvements that the borrower may have made to the unit, the borrower must obtain a "walls in" coverage policy (a.k.a. HO6 policy).

- The association must maintain liability insurance, fidelity insurance (for projects with 20 or more units) and flood insurance, if applicable.
- At least 50% of the units must be owner occupied.
- FHA has adopted concentration limits, that is, the number of units that have FHA backed loans. Between December 7, 2009 and December 31, 2010, FHA will increase its temporary concentration limits to 50%. Beginning on January 1, 2011 the concentration limits will revert to 30% of the total number of

units covered by FHA insurance with respect to most condominiums. There are, however, some situations where the FHA will allow 100% concentration.

When does the condominium need to be FHA certified?

The associations that received FHA approval prior to October 1, 2008 need to recertify the approval on or before December 7, 2009. Associations that were approved between October 1, 2008 and December 7, 2009 will need to seek recertification within two years from the date that they received their certification and their name was placed on the approved condominium list.

Condominiums can obtain FHA certification either directly from HUD or from an authorized FHA lender under HUD's approval process. Once a certification is received, other lenders can rely upon that certification in originating FHA loans. If

the association seeks certification directly from HUD, the process can be lengthy. Given the recent requirements of recertification, it is anticipated that HUD will have a hard time keeping up with the onslaught of recertification applications.

The association should work with its legal counsel to discuss ways to either seek the certification or start the process of streamlining the necessary information that lenders may require so they can seek the certification. Advanced planning by getting the association's "house in order" prior to the institution of these new FHA rules would be time well spent for the association so that it can entertain all potential buyers no matter what type of financing they are considering. ■

*David J. McGee, Esq.
Thomsen Nybeck
Telephone No. 952-835-7000
dmcgee@tn-law.com*

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