

## HUD/FHA LENDING CHANGES

The U.S. Department of Housing and Urban Development (HUD) has released new guidelines regarding the loan approval process for condominium projects. Although aimed at condominium associations, these are anticipated to affect the lending nature of all mortgage institutions and private lenders seem to already be following the anticipated guidelines in their underwriting requirements. This may have a dramatic impact on the ability of an owner to sell their unit and/or the purchaser's ability to close on the sale.

As all of us have become aware in the past year and a half, mortgage lending by banks to prospective purchasers of homes and condominiums has changed dramatically. Conventional financing as we knew it, is no more. Most loans will fall under either FHA or USDA guidelines. FHA has just published some dramatic new requirements for condominium approvals for FHA insured loans. They are no longer doing "spot loan approvals" which, as the name implies only affected the unit receiving the loan. The new guidelines apply not only to new construction, but existing construction as well. Just today we were notified by CAI (Community Association Institute) that the new guidelines would not become effective on October 1, 2009 as originally intended. The effective date has been moved back to November 2, 2009. CAI believes the new regulations will be a serious burden for condominium associations and lead to market confusion that could hinder the housing and economic recovery. CAI has formed a working group of industry experts to identify specific provisions that need to be changed and prepare a policy position and supporting data to advocate the changes that are needed to make these regulations an effective tool for the housing market. Until those changes take place, if they do, the following will apply.

The new FHA regulations would require projects be re-approved every two years instead of a permanent approval. Financially the impact on condominiums results from the approval requirements as follows and they apply to both new and existing construction. (These are just a few of the many regulations – but these apply to existing condominiums).

- No more than 15 percent of the total units can be in arrears (more than 30 days past due) of their condominium association fee payment.
- At least 50 percent of the total units must be owner-occupied or sold to owners who intend to occupy the units.
- Projects consisting of four or more units will have no more than 30 percent of the total units encumbered with FHA insurance (loans).
- Requires a Reserve Study(\*1) to be performed to assure that adequate funds are available for the funding of capital expenditures and maintenance. A current reserve study must be no more than 12 months old – if recent events or market conditions have affected the finished condition of the property, that information must be included. When reviewing the reserve study, consideration must be given to items that have been replaced after the time that the reserve study was completed.  
\*1 = Requires professional Reserve Study by qualified entity: one that has a CAI designation, or other governmental designation.

Approvals expire two years from the date of approval. Recertification will require additional information such as:

1. Pending special assessments
2. Pending legal action against the condominium association, or its officers or directors.
3. Hazard, liability, and, when applicable, flood insurance.

These updated requirements will apply to most all sales and resales. Because this will have a financial impact on many community association budgets, we are urging Boards to take action now to consider these additional costs for reserve studies and Insurance Appraisals. In Florida, the new statutes require Insurance Appraisals every two years. In other states, insurance agents are requesting both reserve studies and insurance appraisal documents when bidding on community association coverage. When the final guidelines are approved and placed into effect, the association can be prepared and ready.

Associations are going to have to wrestle with the costs of complying with the new requirements and come to grips with the idea that funds will need to be allocated to comply with these mandates so the buyers can buy and sellers can sell. If a property cannot be sold it has no value and the market for Condominiums is already fragile.

For more information please see FHA CONDO INSURANCE REGS DELAYED – BUT STILL FLAWED at CAI's website; [www.caionline.org](http://www.caionline.org).