

THE COMMUNITY BUILDER

Lender Project Questionnaire Forms and Estoppel Letters - CondoCerts, a Service for Your Community

The following article was originally published in June of 2014. As many communities have now elected new members to their boards and some of the information has changed, it made sense to do an updated re-run. This information is important and can easily be misunderstood when presented at the eleventh hour by a seller/buyer trying to close a sale.

Lender Project Questionnaire form... What is it and what does it mean to you, or more importantly, to a new purchaser in your community? It is a list of questions that a lender will ask to ensure that the home or unit in a community on which they are providing a mortgage, meets certain specific criteria as it relates to their budget, primary owner to investor owner ratio, governing document requirements for amendments, etc.

As a Board Member you may never have heard of this form until recently when you received a frantic call from a seller that their closing was threatened because the lender for the buyer could not get or would not accept this form. You may have heard it called a condo questionnaire or a PUD questionnaire. It is used on both condominiums and homeowners associations. This is important to the lender because ultimately that mortgage will be insured by either FNMA or FHA and will need to meet certain HUD requirements.

Over the years, I have filled out hundreds of these forms. Each lender generally has their own form and it takes hours to correctly fill it out with the correct answers and provide the copies required by the lender. Many times, I received the form as little as the day before or even a few hours prior to the closing, giving me very little time to do this even though the closing had been scheduled at least thirty (30) days before and the loan processor waited until the last minute to obtain this form. Not a great situation, especially since many times a community manager's job requires them to be out of the office on property away from phones and email.

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A Little History

For at least the last 20 years, developers starting a project subjected their community to what is called "project approval" through FNMA, FHA, VA in order to enable the most buyers to qualify for a loan to purchase a home in their community. The process of project approval is initially undertaken during the planning stages and start of construction of the community's infrastructure. It is a tremendously complex process that requires hundreds of pages of documents, plats, plans, budgets covering everything from the project's phasing, if it is located in a flood zone, if it is subject to any adverse conditions such as potential noise issues (property located within 1000 feet of a highway, freeway or heavily traveled road, within 3000 feet of a railroad, near an airport, etc.) The purpose of all these questions and information was to ensure that the project met certain specific criteria, including required language in the documents about increases in assessments above a certain level without a member vote; that no amendments could be done without a certain percentage of member vote, so they were consistent and once "insured" by one of the above, the mortgages could be bundled and sold on the secondary market. One of the major requirements by FNMA was the ratio of homes or units sold to primary owners (those that are purchasing to live there) to second home owners (those purchasing to live there for a period of time during the year and not to be rented) and investors. That ratio was 70% primary and secondary home owners to 30% investors. In 2006 that ratio changed to 50% primary and secondary and 50% investors

Obviously these numbers are easy to track when you are the developer selling the home and many times handling the mortgage for the property. Another very important issue was the number of owners in arrears, obviously impacting the ability of the Association to operate properly with less income.

As you can see from the very limited scope of the questions and information required above, it would be much easier for a developer to respond individually to a Condo or PUD Questionnaire than at the original sale, than it is 5, 10 or even 20 years later with a community manager or board of directors responding to some of these questions. The same forms from lenders are used regardless of whether it is the initial sale from the Developer or a re-sale requiring the Association to respond.

Another factor to consider was that each bank or lending institution had their own form containing questions different than any other bank's form. There was no



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consistency or continuity, making responding that much more difficult and time consuming requiring different research each time a form was filled out.

Given all of that, several years ago one of the major banks who specializes in homeowners association and condominium association lending began a service called CondoCerts. This service is a program management system that provides reliable, round-the-clock online access to all governing documents and critical project data for lenders, mortgage bankers, real estate agents and homeowners in need of information. CondoCerts took the forms from all of the major lenders and combined the questions into one standard form.

Sentry Management, in an effort to provide superior customer service, adopted this state-of-the-art online data delivery system to ensure the ready availability of this information to its clients. Our staff spends a great deal of time in doing the research to provide the responses to the questions that come from your individual documents and other community information on these forms to ensure any lender or real estate agent can access this needed form on their time schedule. Sentry Management reviews and updates the information every 90 days as part of our service to your Association.

The information available through CondoCerts is: the recorded Declaration or Master Deed; the Articles of Incorporation or Charter; the bylaws; current budget; current year end financial statement from the CPA (if required); the Q&A (required in Florida) and the completed condo or PUD questionnaire.

These forms are legal, binding documents. Incorrect or untrue responses can be and are construed as fraud, therefore there are questions that are best responded to by the Association's legal counsel or noted as Unknown (such as the ratio of primary homeowners to second home owners) or the number of FHA Loans in the project (after all these years, who would know that answer?) The Association is NOT a party to that process and would have no way of knowing that answer, even though it is asked. As to the ratio of rented homes, unless your association has the right to approve leases or requires the prospective tenant to actively participate in an approval and interview process, there is truly no way for the Association to correctly respond to that question either, although we do respond with an explanation as to the number of off-site addresses known in the community. The information regarding Association insurance coverage is referred to the expert, the agent for the Association.



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The information provided by CondoCerts is endorsed and promoted by CAI (Community Association Institute) lawyers and managers; is approved by FNMA and Freddie Mac; and all major lenders. There is a fee associated with this service that is charged to the entity requesting this information. It is paid directly to CondoCerts as a fee for managing the program. The PUD form has 20 questions; the condo questionnaire has 73 questions.

CondoCerts will, at the request of the lender, fill out their specific form based specifically on the information already provided on the form in the system. They will also provide a signature if absolutely required. In most cases, this is not necessary as the forms in the system provide all of the information required to timely and properly execute this paperwork to facilitate a loan to a new owner.

Additionally, effective October 2014, Sentry began using CondoCerts to provide the distribution of Estoppel Letters (also known as a Closing Letter, Trustee Letter or Consent Letter). While Sentry still does the prep and research to provide the account information, the delivery of the Estoppel is through CondoCerts. Again, it is a one-stop-shop for a title company. Like the Questionnaires, the Estoppel Letters are available online 24/7. There is a charge for this service. It varies from state to state based on any statutes or other requirements.

An additional change is that as these fees are paid for upfront by the requestor (Title Company, Attorney, Homeowner), except for very specific instances, you will no longer see these as "pass through" charges on the Association's financial statement.

We hope this information helps you, as a board member, to better understand this process and service. It truly provides everything that is needed to timely close a sale in your community, with correct and reliable information.

