



ASCO General Meeting
“New Federal Mortgage Insurance Regulations”

by
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Recently, Fannie Mae (a/k/a Federal National Mortgage Association) issued temporary requirements/guidelines relating to condominium and residential co-operative projects. As a key player in the secondary mortgage market (which essentially purchases residential mortgage loans originated by lenders), Fannie Mae has significant influence on the residential real estate market. Many lenders do not want to retain their loans but instead sell them to Fannie Mae and similar institutions and use those funds to make more loans. Accordingly, the guidelines (requirements) have a substantial impact on the overall availability of mortgage financing. In other words, if a property does not meet FNMA guidelines and thus, its loan cannot be sold by the lender to FNMA, then prospective buyers who rely on mortgage financing will have difficulty qualifying for loans and thus, the pool of eligible buyers for that property will be significantly reduced, ultimately depressing the value of that property.

The temporary guidelines reflect the national impact generated by the spectacular tragic collapse of the 40 year old Champlain Towers South Condominium in Surfside, Florida, which occurred in June 2021, resulting in close to 100 fatalities.

Not surprisingly in the wake of that disaster, the secondary mortgage market (and lenders) have now focused hard on the physical soundness of the underlying property, which is the ultimate security for their lending. That reaction (or possibly overreaction) is clearly evident in the new temporary requirements dated as of October 13, 2021 and effective as of January 1, 2022. If a property is deemed to have been cited by a governmental authority as having “unsafe conditions” or having significant deferred maintenance, loans for such a property will not be eligible for purchase by Fannie Mae. “Significant deferred maintenance” includes situations affecting overall “safety, soundness, structural integrity or habitability” or “substantial repairs and rehabilitation” or problems relating to “safe and sound functioning” of major structural or mechanical elements” (such as the roof, foundation, load bearing structures, electrical system, HVAC system and plumbing).

Major (capital) repairs often involve a special assessment on the membership. In that regard, special assessments are scrutinized as to reason, total amount and payment terms, impact on the property’s financial stability, viability, condition and marketability, and the borrower’s (buyer’s) ability to handle that special assessment. Also, Fannie Mae is suspending its flexibility whereby its 10% reserve requirement could be satisfied by simply obtaining a reserve study.

Fannie Mae recommends lender review of available inspection, engineering and certification reports completed with the past 5 years for a project. Projects involved in

construction defect litigation or “other material litigation” are deemed ineligible for Fannie Mae purchase.

As part of these new requirements, a Condominium Project Questionnaire Addendum is being required, to be completed by the Association. Management companies are understandably reluctant to be saddled with any liability stemming from incomplete or misleading responses, so are typically requiring the Board of Directors to take on that responsibility. In some cases, management has suggested “canned” and often meaningless responses for approval by the Board. Instead, the appropriate handling of the Addendum is to provide meaningful responses with appropriate disclaimers and limitations.

Finally, Freddie Mac (Federal Home Loan Mortgage Corporation), another significant secondary mortgage market player, has issued similar temporary requirements.

See attachments: FNMA Lender Letter (LL-2021-14) (pdf)
 Condominium Project Questionnaire Addendum (pdf)
 Freddie Mac Bulletin (2021-38) (pdf)