

New Finance Rules Affect Wisconsin Condominiums

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Practice Area: Community Associations

Finance Certification Will Take Place At The Association Level - It's No Longer Only A Buyer-Seller Issue.

New lending rules for condominium buyers took effect Monday, December 7th with a roll-out of additional rules scheduled for February, 2010. These will have implications for almost all Wisconsin condominiums – at an association level. Boards of directors: Take heed.

Lenders now look not only to the qualifications of the borrower who seeks financing to purchase a unit. Also subject to review is the condominium ownership structure, the budget and other issues that affect lending risk. Your neighbor who wants to sell her Wisconsin condominium home will inevitably look to you to assure association compliance with the new rules.

While some of the rules now in place were formerly in place, lenders, as we know, have new religion about managing risk. The days of qualifying for a loan if you exhale carbon dioxide are over. Lenders face penalties for getting the deal wrong.

Your local lender or mortgage broker typically places the buyer's mortgage security in a package of similarly structured loans and this package is sold to investors. Sometimes, the loan receives a federal guarantee, and it is this guarantee which makes the money available to that excited buyer. The Federal Housing Administration (FHA) is now the guarantor of choice and, in many cases, the only guarantor presently in the market who can make the deal work.

Of special interest is the fact that the FHA still holds to its mission to promote home ownership, so it makes qualifying for a loan as easy as reasonably possible. Low down payments (below five percent) and moderate income and credit scores may not disqualify a borrower. For many, it seems, FHA is the main player, now.

But the FHA still must manage its risk, and starting in February, *condominiums must qualify for FHA loans at the association level. "Spot Loans," i.e. individual loan certifications, are replaced with project level certification.*

Once an association is certified, the lender need only report that the situation has not changed to the lender's detriment since certification. The obstacle of association qualification is removed. If the buyer qualifies, the deal happens.

Regrettably, the FHA did not answer certain questions. The most important is: Who obtains the project-level (i.e. the association) certification in the first place?

While FHA rules apply to lenders, that doesn't answer the question. Once a contract to purchase a unit is signed, neither the would-be lender nor anyone else may have time or information to get that project-level approval. *We recommend that associations get that approval, now, before an active sales season (hopefully) happens in the Spring!* This may be the only way to make the deal happen in a timely fashion and, in any event, it will give your association a competitive advantage in the eyes of buyers and brokers (because it is "prequalified.")

Other questions are left to our own resolution and experience. An association must now meet criteria relating to investor ownership, rental percentage, FHA concentration, delinquencies, reserve line items and insurance deductible funding, among others. So, who collects and delivers this information? Once again, we believe the association will be called on to do this even though it is technically the lender's job.

What kind of loan information package should an association prepare for when the lender comes calling? When should the association tell the lender, "no, we don't do that, do your own job!"? Keep in mind that associations could face penalties lenders for conveying misinformation to make a deal happen.

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