

## **CAI Expresses Continued Concern on FHA Rules**

On November 6, the Federal Housing Administration issued revised guidelines outlining requirements for condominium associations to qualify for FHA mortgage insurance. With mortgage underwriting giants Fannie Mae and Freddie Mac still struggling in receivership, FHA mortgage insurance is playing an increasingly important role in providing financing options to condominium buyers. Because of this increasingly important role, CAI has been actively engaged with the FHA in response to their evolving guidelines for condominiums to ensure that the final requirements are realistic, achievable and are informed by real-world association experience.

### **Follow up to FHA Officials**

On December 1, 2009, CAI's CEO Thomas Skiba sent a [letter](#) to FHA Commissioner Stevens outlining continued concerns related to FHA's revised guideline. While the revisions improve on earlier drafts, they include provisions that may prove problematic to associations seeking to work with lenders to qualify the association for FHA mortgage insurance. In its letter to the FHA Commissioner, CAI noted three areas of continued concern:

First, CAI expressed concern regarding the requirement that an association can have no more than 15 percent of units, 30 days delinquent in assessments. This threshold is an arbitrary standard for determining an association's fiscal health. CAI noted that the key issue for FHA should be the association's ability to maintain the common elements of the association, thus protecting the value of the units. Additionally, determining the owner in a foreclosure for collection of assessments has been problematic for many community associations. As an alternative, CAI encouraged FHA to adopt a base standard of no more than 15 percent of units 90-days delinquent in assessments. If that standard is not met, then the lender or FHA should examine the budget to determine if the association has made allowances for delinquencies.

CAI also expressed concern over the requirement that an association's owner occupancy ratio be greater than 50 percent. In the approval process it is likely that volunteer condominium board members and community managers will be the primary mechanism lenders will use to obtain information on owner occupancy statistics. As noted in a previous letter to the FHA, associations are not party to lease agreements between unit owners and tenants, let alone informed of other situations where the unit may be under contract for sale, located in a state that may use a trust to hold title or under some other arrangement that would frustrate providing this information with complete accuracy. This is especially important as the new guidelines provide for harsh criminal penalties for knowingly providing inaccurate data to the FHA. There is a concern that difficulty in gathering this data combined with potential criminal liability will have an unneeded chilling effect on condominium association willingness to provide lenders with this data, thus closing off important financing options for potential purchasers.

CAI provided additional suggestions on realistic means of gauging owner occupancy requirements that we hope will serve as the basis of further discussion with FHA officials.

Finally, CAI expressed ongoing concern regarding the 25% commercial space threshold and how it runs counter to the need to build more mixed-use, environmentally friendly, transit oriented developments.

### **Next Steps**

CAI will keep you updated in the coming weeks as additional information becomes available. Updates will be posted to the “Heads-Up” page on CAI’s Web site. CAI members with questions should call Andrew Fortin, Vice President of Government and Public Affairs, at 703-548-8600, or by e-mail at [g&pa@caionline.org](mailto:g&pa@caionline.org), with the subject line “FHA Condo Regs.”

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