

## Clarification of Fannie Mae Delinquency Criteria

On December 16, 2008, Fannie Mae announced new underwriting guidelines for mortgages in new condominium developments. Although the announcement was targeted at the lenders who work with Fannie Mae, the memorandum has been cause for concern throughout the condominium community, specifically over a provision related to delinquent member assessments. Because of the concern this provision has raised, CAI has reached out to Fannie Mae for clarification of the intent and application of this requirement.

In Announcement 08-34, Fannie Mae announced the establishment of a new Project Eligibility Review Service (PERS) that lenders can use for review of project eligibility for new or newly converted condominiums in lieu of performing their own full review of the condominium project. As Fannie Mae purchases mortgages from lenders, meeting their project eligibility criteria is usually key to ensuring that a property can qualify for a mortgage.

Also in Announcement 08-34 were several new or updated project eligibility criteria for new, attached condominium developments. One of these provisions reads:

“Fannie Mae is updating its delinquent HOA dues policy ... to require that no more than 15% of the *total units* in a project can be 30 days or more past due on the payment of their condominium/association fee payments. This new policy applies to the review of both new and established condominium projects.”

It has been reported in the media that this is 1) a new requirement and 2) that unit owners in an association with a 15% or more delinquency rate will find their properties unmarketable. Fannie Mae indicates that this is not the case.

According to Fannie Mae, the delinquency threshold has been a criterion for established projects (i.e., sold out projects no longer under developer control) for some time. They updated this requirement in Announcement 08-34 to begin requiring that new condominium projects to also meet this threshold due to increasing numbers of early payment defaults occurring before a new project sells out. While important to determine the underwriting risk for the project in question, Fannie Mae assures us that the 15% threshold alone would not disqualify a condominium project from meeting its project standards requirements. Anecdotal evidence observed by CAI tends to support that position. Fannie Mae indicated they work with lenders who request waivers when a particular project exceeds the 15% threshold. Exceptions are typically granted if the project can sustain itself with greater than 15% of the total units delinquent on their condominium/association fee payments.

However, one area that remains a concern is the change in focus from delinquent “payments” to delinquent “units.” CAI expressed its concern that measuring delinquencies by units may be problematic in the case of foreclosures, because the association does not always know who the current possessor of the unit may be for collections. In fact, California recently passed a law requiring disclosure of the title holder of property in foreclosure to facilitate collections of past due assessments. Fannie Mae

representatives indicated that they would examine this issue further and work with CAI to monitor and see if this emerges as an issue.

In short, the 15% threshold alone will not be a disqualifier for mortgage underwriting. While the measure of the threshold by units is a concern, CAI will continue to monitor and work with Fannie Mae to ensure that any unforeseen problems are addressed. Any member issues should be reported to CAI's Government and Public Affairs Department at [g&pa@caionline.org](mailto:g&pa@caionline.org).