

FHA Backs Away From Management Company Insurance Mandate

Thanks to pressure from CAI members across the country, the Federal Housing Administration (FHA) indicated that it will revise a controversial regulatory mandate that would require management companies to carry a fidelity bond if they managed a condominium association. In June, FHA released new guidelines for its condominium mortgage insurance program. The guidelines set standards that condominium associations must meet in order for any potential buyer to qualify for a FHA-backed mortgage. As FHA accounts for nearly one in three condominium mortgages, the guidelines have a significant impact on the marketability of condominiums.

The new guidance issued by FHA mandated that all condominium associations carry fidelity insurance to cover board members and association employees. FHA also mandated that if a condominium association was professionally managed, the association had to compel the management company to carry a fidelity bond in an amount equal to the association's budget and reserves. CAI members had three concerns with this requirement. First, FHA imposed the insurance mandate without any notice or ability by affected companies to comment on the impact of requiring a fidelity bond. Second, CAI insurance company members noted that fidelity insurance and fidelity bonds are not synonymous and the bond requirement imposed by FHA is not generally commercially available. Finally, CAI noted in several states, including Maryland, Virginia and Florida, state law requires an association to carry fidelity insurance that covers the management company. Thus, FHA's requirement was costly, difficult if not impossible to obtain and in conflict with state law.

At a September training session on the new condominium guidelines, FHA representatives indicated FHA would back off this requirement in favor of allowing an association to obtain a policy that covered the management company. Thanks to the efforts of CAI members, this reversal by FHA will save management companies and homeowners money and allow more condominium associations to meet FHA mortgage requirements.