



**To:** Members, House Financial Services Committee

**From:** Dawn M. Bauman, CAE  
Senior Vice President, Government & Public Affairs  
Community Associations Institute  
[dbauman@caionline.org](mailto:dbauman@caionline.org) | (703) 970-9224  
[www.condosafety.com](http://www.condosafety.com)

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**RE:** Federal Housing Finance Agency Condominium Rules and Questions for FHFA Director Thompson

On July 20<sup>th</sup>, the Financial Services Committee will receive testimony from Federal Housing Finance Agency (FHFA) Director Sandra Thompson. Community Associations Institute (CAI) respectfully submits the following questions and urges the committee to ask FHFA Director Thompson about ways to improve access to mortgage credit for condominium and cooperative homeowners and homebuyers residing in structurally safe and sound buildings.

### **Background**

Following the tragic collapse of Champlain Towers South in Surfside, Florida, Fannie Mae and Freddie Mac adopted emergency underwriting guidelines for condominium unit mortgages and housing cooperative share loans at the direction of FHFA. The Fannie Mae and Freddie Mac temporary condominium and housing cooperative guidelines became effective earlier this year.<sup>1</sup>

Under the temporary guidelines, mortgage originators must verify the structural integrity of any condominium or housing cooperative building with more than 5 units. Unless a lender verifies a condominium or cooperative building is structurally sound, no loans secured by a unit in the building may be sold to the GSEs. The process lenders use is a questionnaire they ask volunteer boards of directors of condominiums/housing cooperatives or their managing agent to complete.<sup>2</sup> The questionnaires include questions from a uniform (but not mandatory) questionnaire created by Fannie Mae and Freddie Mac. Several of the questions pose problems and condominium/cooperative representatives are unable to provide answers.

### **Guideline Implementation & Industry Feedback**

The FHFA condominium and cooperative policy directive is disrupting access to mortgage credit for homeowners in safe buildings. In a survey of the condominium industry, 72% of respondents were impacted by the new guidelines, 45% reported mortgage closing delays, and

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<sup>1</sup> [Fannie Mae LL-2021-14](#); [Freddie Mac Bulletin 2021-38](#)

<sup>2</sup> [Fannie Mae/Freddie Mac Uniform Condominium/Cooperative Questionnaire with addendum](#)

28% indicated the guidelines caused loan denials in condominium projects with no identifiable structural or financial integrity issues.<sup>3</sup>

Other stakeholders agree. In addition to CAI<sup>4</sup>, the National Association of Realtors<sup>5</sup>, Mortgage Bankers Association<sup>6</sup>, and the Community Home Lenders of America<sup>7</sup> have requested that FHFA suspend and revise the new guidelines.

### **FHFA Delays Release of Revised Guidelines**

CAI and other stakeholders have provided constructive feedback on policy to improve condominium and cooperative building safety and access to mortgage credit. After receiving stakeholder and customer feedback, Fannie Mae and Freddie Mac proposed guidelines revisions to FHFA. Regrettably, FHFA has delayed the release of any revised guidelines by the GSEs.

### **Policy Solutions for FHFA**

Preserving the safety of condominium and cooperative housing is a key priority of CAI.<sup>8</sup> CAI has submitted feedback on the temporary guidelines to FHFA. CAI's comments specify the following revisions—

- Elimination of forward looking, speculative questions that condominium association boards and managers are unable to answer factually.
- Elimination of questions that exceed the core competencies of condominium association boards and managers (e.g., questions that require board members or managers to render a legal opinion).
- Targeting risk management activities to condominium projects most likely to benefit from scrutiny (e.g., condominium projects aged beyond 20-years and located in areas at higher risk of salt-based corrosion).
- Streamlining questionnaires implementing the temporary guidance to effectively collect relevant information and reduce burdens on condominium association boards and managers.

### **Recommended Questions for FHFA Director Thompson**

1. Has FHFA received recommendations to update condominium and cooperative structural integrity policy and lender questionnaires from Fannie Mae and Freddie Mac? If so, when do you project FHFA will approve any GSE recommended changes to the guidelines?
2. FHFA's starting point for building safety is very broad and seems to assume most condominiums and cooperatives are at high risk of structural failure and collapse. Why

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<sup>3</sup> [CAI Condominium & Cooperatives Snap Member Survey](#)

<sup>4</sup> [CAI Letter to FHFA](#)

<sup>5</sup> [National Association of Realtors Letter to FHFA, Fannie Mae, and Freddie Mac](#)

<sup>6</sup> [Mortgage Bankers Association Letter to FHFA, Fannie Mae, and Freddie Mac](#)

<sup>7</sup> [Community Home Lenders of America Letter to FHFA, Fannie Mae, and Freddie Mac](#)

<sup>8</sup> [CAI Condominium Safety Public Policy Report and Recommendations \(September 2021\)](#)

not take a targeted and balanced approach that looks at older buildings located in areas of higher risk as opposed to requiring all buildings with 5 or more units to have structural inspections?

3. FHFA and the GSEs appear to have taken a risk-elimination approach to condominium and cooperative underwriting rather than a risk-management approach. Why is this and does FHFA typically seek to eliminate risks or to manage them?

Community Associations Institute (CAI) members stands ready to continue to work with Fannie Mae and Freddie to develop practical condo and coop lending requirements that will mitigate risk for Fannie Mae and Freddie Mac while ensuring access to capital and market liquidity for condominium and housing cooperative homebuyers. Condominiums and housing cooperatives are often an affordable housing option for low and middle income homebuyers; including seniors and people of color.

### **CAI's Commitment to Condo Safety**

Following the tragic partial collapse of Champlain Tower South in Surfside, Fla., on June 24, 2021, CAI convened task forces to explore changes to laws and best practices for the community association housing model that may help other communities avoid this type of devastation and to provide solutions for legislators seeking to address building safety in their districts. Over a three-month period, more than 600 people participated in CAI's process through conversations, surveys, research, interviews, and identifying clear recommendations. Reserve specialists, attorneys, insurance and risk management professionals, developers, engineers, architects, community association managers, and homeowner leaders contributed. The teams also engaged stakeholders across the globe and across a wide range of disciplines, expertise, interests, and organizations.

The solution exists at the state legislature to establish statutory requirements that will lead to condominium safety. To date, almost 20 state legislatures have considered bills in response to the tragic partial collapse of Champlain Towers South in Surfside, Fla., last year

Public policy recommendations in the areas of reserve studies and funding, building maintenance, and structural integrity are detailed in CAI's [Condominium Safety Public Policy Report](#), released in late October. CAI's legislative action committees have worked closely with state legislators over the past year to ensure that these recommendations are considered for adoption into state law to support the existing statutory framework for the development, governance, and management of community associations.

The [Florida legislature](#) **unanimously** passed [SB 4D – Building Safety Act for condominium and cooperative associations](#), which was signed by Gov. Ron DeSantis on May 26. The legislation includes a framework largely based on CAI's recommendations, including:

- Building inspections as structures reach 30 years old and every 10 years thereafter.
- Mandatory reserve study and funding for structural integrity components (building, floors, windows, plumbing, electrical, etc.).

- Removal of opt-out funding of reserves for structural integrity components.
- Mandatory transparency—providing all owners and residents access to building safety information.
- Clear developer requirements for building inspections, structural integrity reserve study, and funding requirements prior to transition to the residents.

Below is a summary of how other states addressed condominium safety concerns in 2022: Reserve Studies and Funding. Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Maryland, Tennessee, and Virginia have introduced legislation regulating reserve studies and funding:

- **Illinois** passed legislation which clarifies that if an association obtains a reserve study that study is part of the association's books and records, owners have a right to examine and copy that reserve study. The bill does not mandate that an association have a reserve study.
- **Maryland** enacted legislation mandating reserve studies and funding beginning Oct. 1.
- **Virginia** passed legislation creating a study program under the Department of Professional and Occupational Regulation to analyze the adequacy of existing law to address structural integrity and reserves in common interest communities.

CAI's Government and Public Affairs team and Legislative Action Committees are committed to work diligently with state legislatures to ensure the best quality condominium safety public policy is passed in each state.