

DETERMINING CONDO OR COOP ELIGIBILITY FOR MORTGAGES BACKED BY FANNIE MAE AND FREDDIE MAC

A GUIDE FOR NAVIGATING THE NEW TEMPORARY REQUIREMENTS
FOR CONDOMINIUMS AND HOUSING COOPERATIVES

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Determining Condo or Coop Eligibility for Mortgages Backed by Fannie Mae and Freddie Mac

Summary of Fannie Mae and Freddie Mac Temporary Guidelines for Condominiums and Housing Cooperatives Regarding Deferred Maintenance, Structural Integrity, Special Assessments, and Reserve Funding

Contents

OVERVIEW OF FANNIE MAE AND FREDDIE MAC	2
WHAT ARE LENDERS LOOKING FOR FROM CONDOS AND COOPS?	2
WHEN WILL THESE REQUIREMENTS BECOME PERMANENT?	4
FAQs.....	4
CAI RESOURCES	7
SOURCES	7
CAI’S COMPARISON CHART OF FANNIE MAE FREDDIE MAC TEMPORARY LENDING GUIDELINES.	9

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OVERVIEW OF FANNIE MAE AND FREDDIE MAC

Fannie Mae and Freddie Mac are known as government-sponsored enterprises (GSE), a quasi-governmental entity established to enhance the flow of credit to specific sectors of the American economy. Created by Congress, these agencies are privately held companies under the oversight of the Federal Housing Finance Agency (FHFA) to help provide public financial services. These GSEs do not lend money to the public directly; instead, they guarantee third-party loans and purchase loans in the secondary market, providing money to lenders and financial institutions.

Following the Champlain Towers South condominium collapse in Surfside, Fla., the GSEs set out to make changes to their guidance that mortgage lenders must follow if they want Fannie Mae or Freddie Mac to guarantee or purchase their mortgages. According to FHFA, Fannie Mae and Freddie Mac own 62% of conforming loans. Lenders rely on Fannie Mae and Freddie Mac to purchase or guarantee their mortgages because it gives more liquidity for lenders, which then allows them to underwrite or fund more mortgages.

Lenders need to comply with the new Fannie Mae and Freddie Mac requirements to maintain underwriting or funding the volume of mortgages.

The new requirements, intended to mitigate risk of losses for Fannie Mae and Freddie Mac, create a database of condominium and housing cooperative projects that are ineligible for guarantee or purchase by Fannie Mae or Freddie Mac. Lenders will and have declined lending in condominium and cooperative projects with significant deferred maintenance or unsafe conditions, special assessments, insufficient reserve funding, or no reserve study.

WHAT ARE LENDERS LOOKING FOR FROM CONDOS AND COOPS?

There is considerable overlap in the Fannie Mae and Freddie Mac requirements, and they have released a joint uniform lender questionnaire. Our summary below combines both Fannie Mae and Freddie Mac's requirements.

Significant Deferred Maintenance and Unsafe Conditions

Projects with significant deferred maintenance or unsafe conditions are not eligible until repairs are completed.

Special Assessments

Lenders must evaluate special assessments within the project to understand the reason for the special assessment, the total amount of the assessments (including repayment terms) and evaluate whether there is a negative impact to association funds to make critical repairs. The assessment must be considered in the borrower's debt ratios.

Reserve Requirements

All condominiums and housing cooperatives must have 10% of the associations assessment income dedicated to reserves. This 10% must be clearly identifiable in the association's budget.

Significant Deferred Maintenance

The following criteria will make a building ineligible for secured mortgages:

- Buildings with significant deferred maintenance and unsafe conditions.
- A full or partial evacuation of the building to complete repairs is required for more than seven days or an unknown period of time.
- The project has deficiencies, defects, substantial damage, or deferred maintenance that is severe enough to affect the safety, soundness, structural integrity, or habitability of the improvements.
- The improvements need substantial repairs and rehabilitation, including to many major components that would impede the safe and sound functioning of one or more of the building's major structural or mechanical elements including, but not limited to, the foundation, roof, load bearing structures, electrical systems, HVAC, or plumbing.
- The building has not passed or completed required inspections (by local or state law).

The following are not considered significant deferred maintenance concerns

- Routine maintenance
- Improvement projects
- Repairs isolated to a few units that do not impact the overall project

Condo Project Manager™

Fannie Mae and Freddie Mac have a private database only available to lenders that tracks condominiums and housing cooperative buildings that are ineligible for mortgage backing from the GSEs.

Lender Questionnaires

A Freddie Mac and Fannie Mae joint form, an addendum to the existing Form 476, Condominium Project Questionnaire - Full Form, may assist lenders in determining whether a project meets the temporary requirements. The Condominium Project Questionnaire Addendum (Form 476A) is a voluntary form for lenders. However, it provides community association boards and managers with information to better understand what questions lenders will be asking. Most may be answered by the board and/or manager, but there are several questions that are not easily answered with a yes or no response that will require additional documentation from the board and/or manager. The following questions may need documentation given to the lender to determine the answer to the question.

Q: Is the condominium/housing cooperative corporation aware of any deficiency to the safety, soundness, structural integrity, or habitability of the project's building?

Possible Response: These documents may be provided to the lender to help them determine an answer to the question:

- Condo/coop board meeting minutes
- Building inspection report and/or engineer's report
- Reserve studies

- Maintenance schedule
- Other substantially similar documentation

Q. Is it anticipated the project will, in the future, have violation(s)? (Note: This is a follow up question to “Are there any outstanding violations of jurisdictional requirements (zoning ordinances, codes, etc.) related to the safety, soundness, structural integrity, or habitability of the project’s buildings?”)

Explanation from Freddie Mac: The purpose of this question is for known ordinances and laws that are already in place (not anticipated new laws/ordinances). For example, condominium buildings in California are required to comply with balcony inspection requirements by 2025, and condominiums and cooperatives in New York City are required to comply with regular façade, parking garage, and balcony (terrace) inspections. If the building is not compliant with the inspection requirements, or if the association is aware of significant issues that will likely result in a violation when the required inspection is done in 2025, then they should answer “Yes” to the question.

WHEN WILL THESE REQUIREMENTS BECOME PERMANENT?

These requirements are temporary and expected to become permanent in the coming months. CAI continues to work with Fannie Mae and Freddie Mac to encourage changes to the guidelines that will make them more workable for condominiums and housing cooperatives. For up-to-date information on the Fannie Mae and Freddie Mac guidelines and how to navigate these changes, visit www.caionline.org/condosafety.

FAQs

Q: Are these deferred maintenance requirements applicable to condos only, or also to townhomes or single-family homes?

A: The temporary requirements apply to all mortgages secured by units in projects with five or more attached units.

Q: What if the association board of directors does not want to answer the new Fannie Mae and Freddie Mac questions?

A: The lenders and appraisers may rely on sources other than condominium and housing cooperative representatives (board members, community manager, etc.) Fannie Mae has expressed willingness for the seller to be a source of information. It is important to note that Fannie Mae and Freddie Mac have stated they will not back loans in condominiums and housing cooperatives if the lender is uncertain or unable to confirm the safety, soundness, integrity, and habitability of the building.

Fannie Mae and Freddie Mac will list the condominium and housing cooperative building list in their private database, Condo Manager, that is only accessible by lenders.

Q: Will there be a new form that is required to be filled out?

A: Fannie Mae and Freddie Mac have released a new uniform lender questionnaire. However, the GSEs do not mandate that lenders use the questionnaire.

Q: **Does anyone here have any data on the percentage of community associations in the country that are underfunded in terms of reserves?**

A: The Foundation for Community Association Research collected and presented the [following data](#):

If you live in a condominium or homeowners association, does your community have a reserve study to help plan for repair and replacement of major components owned by the community?

- 60% Yes
- 22% Not Sure
- 18% No

Does your community have a plan to fund the repair and replacement of major components owned by the community?

- 75% Yes
- 16% Not Sure
- 9% No

Do you support annually investing in your community to build a fund for future repair and replacement of major components owned by the community?

- 71% Yes
- 13% Not Sure
- 16% No

Q: **Can you clarify the term "significant deferred maintenance"?**

A: Freddie Mac defines significant deferred maintenance as:

- The postponement of normal maintenance, which cannot reasonably be resolved by normal operations or routine maintenance, and which may result in the following:
 - Advanced physical deterioration
 - Lack of full operation or efficiency
 - Increased operating costs
 - Decline in property value

Q: **To whom are these standards applicable? New condominiums, established condominiums, established coops?**

A: All buildings, regardless of age, as defined: the temporary requirements apply to all mortgages secured by units in projects with five or more attached units.

Q: **What is Fannie's response if sales stop in condos due to non-answered questions either because there hasn't been enough time or communities have been advised not to answer?**

A: It is important to note that Fannie Mae and Freddie Mac have stated they will not back loans in condominiums and housing cooperatives if the lender is uncertain or unable to confirm the safety, soundness, integrity, and habitability of the building.

Fannie Mae and Freddie Mac will list the condominium and housing cooperative building list in their private database, Condo Manager, that is only accessible by lenders.

Q: What if an association board refuses to fill out the addendum due to potential exposure?

A: It is important to note that Fannie Mae and Freddie Mac have stated they will not back loans in condominiums and housing cooperatives if the lender is uncertain or unable to confirm the safety, soundness, integrity, and habitability of the building.

Fannie Mae and Freddie Mac will list the condominium and housing cooperative building list in their private database, condo manager, that is only accessible by lenders.

Q: A resident obtains a mortgage via Fannie Mae or Freddie Mac, that was granted in part due to inaccurate/false information provided by the association. What are the penalties/remedies for the GSEs against the resident and the association?

A: Consult with your attorney to identify exposure to liability for answering and/or not answering questions.

Q: Are there civil or criminal penalties for incorrect responses to the questionnaire and are they similar to liability for mortgage fraud?

A: Consult with your attorney to identify exposure to liability for answering and/or not answering questions.

Q: If there are known issues with a building, isn't the association best served by not responding to the lender questionnaire, especially the addendum?

A: Consult with your attorney.

It is important to note that Fannie Mae and Freddie Mac have stated they will not back loans in condominiums and housing cooperatives if the lender is uncertain or unable to confirm the safety, soundness, integrity, and habitability of the building.

Fannie Mae and Freddie Mac will list the condominium and housing cooperative building list in their private database, Condo Manager, that is only accessible by lenders.

Q: Is the 10% reserve requirement non-cumulative? Must 10% of the budget be set aside each year?

A: The requirement is that 10% of community association assessments shall be allocated to reserves in the annual budget.

Q: What is the liability for the management companies if the questions are answered incorrectly?

A: Consult with your attorney to explore liability associated with completing the questionnaires.

- Q. In 2018, Fannie Mae released a reciprocity agreement with the Federal Housing Administration (FHA) and can take delivery of a conventional loan that is part of an FHA-approved condominium association. Do these questionnaires need to be completed if the community is FHA-certified? Can they bypass this process by using the reciprocity agreement already in place?**
- A: If a condominium is FHA-certified, it still needs to complete the lender questionnaire for Fannie Mae and Freddie Mac.
- Q. What answer do we give if we cannot give a yes or no answer? Lenders push back on the "unknown" or "unable to answer" as a response.**
- A: It is appropriate to provide documentation like board meeting minutes, building/façade inspections, maintenance schedules/reports, and reserve studies and schedules so the lender may review the materials and answer the question on their own.
- Q. What about simply making maintenance records available to lender akin to a document review in litigation? Let the lender make their own conclusions but give them the data.**
- A: It is appropriate to provide documentation like meeting minutes, building/façade inspections, maintenance schedules/reports, and reserve studies and schedules as documentation so the lender may review the materials and answer the question on their own.

CAI RESOURCES

CAI's comparison chart of Fannie Mae Freddie Mac temporary lending guidelines. CAI's Letter to the Federal Housing Finance Agency (FHFA), the conservator and regulator of Fannie Mae and Freddie Mac urging it to suspend implementation of the new requirements for at least one year.

SOURCES

[Fannie Mae's new requirements are outlined in Lender Letter \(LL-2021-14\)](#). Effective January 1, 2022.

[Freddie Mac's new requirements are outlined in Bulletin 2021-38 Temporary Condominium and Cooperative Project Requirements and Topic 5600 Reorganization](#). Effective February 28, 2022.

Fannie Mae Lender Letter

<https://singlefamily.fanniemae.com/media/29411/display>

Fannie Mae Fact Sheet

<https://singlefamily.fanniemae.com/news-events/appraising-and-underwriting-condo-and-co-op-projects>

Fannie Mae Perspectives Blog

<https://www.fanniemae.com/research-and-insights/perspectives/condos-sustainable-housing-option>

Freddie Mac FAQ

<https://sf.freddiemac.com/faqs/condominium-unit-mortgage-faq>

Freddie Mac Lender Guide

<https://guide.freddiemac.com/app/guide/section/5701.2>

Condominium Project Questionnaire Addendum (Form 476A)

[Microsoft Word - Form 476A Freddie Mac.docx](#)



Criteria	Fannie Mae	Freddie Mac
Effective Date	January 1, 2022	February 28, 2022
Project Safety Definitions & Ineligibility Standard	<p><u>Definition of Projects with Significant Deferred Maintenance & Unsafe Conditions</u></p> <ul style="list-style-type: none"> • Full or partial evacuation of project required for more than 7 days to complete repairs • Project deficiencies affect safety, soundness, structural integrity, and/or habitability of the project • Project requires substantial repair and/or rehabilitation • Project deficiencies impede safe and sound functioning of a project’s major structural or mechanical elements (e.g., foundation, roof, load bearing structures, electrical system, HVAC, plumbing) • Project has failed to receive certificate of occupancy or to comply with local government regulatory inspection requirements <p><u>Ineligibility Due to Significant Deferred Maintenance & Unsafe Conditions</u></p> <ul style="list-style-type: none"> • Projects with significant deferred maintenance and unsafe conditions are not eligible for Fannie Mae approval or eligibility waivers • Loans secured by units or shares in a condominium or co-op with significant deferred maintenance and unsafe conditions are ineligible for delivery to Fannie Mae 	<p><u>Definition of Critical Repairs</u></p> <ul style="list-style-type: none"> • Repairs and work that significantly impact safety, soundness, structural integrity, or habitability of a condominium or co-op project • Repairs and work that impact unit values, financial viability, and/or marketability of units • Critical repairs are directly related to— <ul style="list-style-type: none"> ○ Life safety hazards ○ Violations of law relating to zoning, subdivision and use, building, housing accessibility, health, or fire safety ○ <u>Material deficiencies</u> ○ <u>Significant deferred maintenance</u> <p><u>Definition of Material Deficiencies</u></p> <ul style="list-style-type: none"> • Deficiencies that if left uncorrected have the potential to contribute to or result in the failure of a project critical element or system within 1 year • Deficiencies that will likely result in significant remediation cost escalation for material building components approaching, reaching, or exceeding expected useful life • Deficiencies resulting from reliance on material building components which, notwithstanding useful life terms, are effectively aged beyond useful life and exhibit abuse, excessive wear and tear, poor maintenance, and exposure to the elements • Evidence of any mold, water intrusion, or potentially damaging leaks to project buildings <p><u>Definition of Significant Deferred Maintenance</u></p>

Fannie Mae/Freddie Mac Temporary Condominium/Housing Cooperative Eligibility Guidelines (Feb. 2022)

Criteria	Fannie Mae	Freddie Mac
	<ul style="list-style-type: none"> • Waiver requests are discontinued for projects with the following conditions— <ul style="list-style-type: none"> ○ Significant deferred maintenance ○ Failure to obtain certificate of occupancy ○ Failure to pass/obtain regulatory safety, soundness, and/or habitability certification or recertification ○ Projects unable to comply with special assessment documentation requirements <p><u>Deficient Insurance Coverage Waiver Requests</u> Eligibility waivers related to insurance coverage deficiencies are suspended</p>	
<p>Documentation & Reinstatement Standards</p> <p>Documentation & Reinstatement Standards</p>	<p><u>Best Practice for Documentation Review</u></p> <ul style="list-style-type: none"> • Past 6 months of condominium association/co-op board meeting minutes reviewed for— <ul style="list-style-type: none"> ○ Information on maintenance or construction indicating significant safety, soundness, structural integrity, or habitability ○ References to key words, including “improvements” “renovations” “inadequate reserve funding” “budget deficits” and “negative cash-flow” or similar words/terms must be investigated to determine any relationship to significant deferred maintenance and/or unsafe conditions • Past 5 years of inspection, engineering, or certification reports to identify deferred maintenance or other deficiencies impacting the safety, soundness, structural integrity, and/or habitability of the project 	<p><u>Documentation Sources</u></p> <p>Acceptable sources to document if a project requires critical repairs—</p> <ul style="list-style-type: none"> ○ Condominium association or co-op board meeting minutes ○ Engineer’s reports ○ Reserve studies ○ Condominium association, co-op corporation, or management company records of necessary repairs ○ Administrative records from local government <p><u>Documentation and Reinstatement Standard</u></p> <ul style="list-style-type: none"> • Seller must document that required repairs and all deficiencies identified in an inspection report have been cured

Fannie Mae/Freddie Mac Temporary Condominium/Housing Cooperative Eligibility Guidelines (Feb. 2022)



Criteria	Fannie Mae	Freddie Mac
	<ul style="list-style-type: none"> • Appraiser may obtain information from lender, homeowner, borrower, real estate agents, visual inspections, and similar resources • If information concerning special assessments and significant deferred maintenance is unavailable the appraisal report may not be filed as complete 	

Fannie Mae/Freddie Mac Temporary Condominium/Housing Cooperative Eligibility Guidelines (Feb. 2022)



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