



Bankers Advisory

COMPLIANCE MONITOR

November 13, 2015

FHA Adds Temporary Approval Provisions for FHA Condominiums

By Anna DeSimone

November 13, 2015 HUD issued ML 2015-27: Additional Temporary Approval Provisions for Federal Housing Administration (FHA) Condominium Project Approval. This Mortgagee Letter:

- provides notice of revised calculation of FHA required owner-occupancy percentage;
- provides expansion of eligible condominium project insurance coverage; and
- provides revised requirements for obtaining condominium project recertification.

It is anticipated that the issuance of these additional temporary provisions will increase the pool of condominium projects eligible for FHA approval, thus increasing affordable housing options for first-time and low to moderate income homebuyers.

The requirements of this Mortgagee Letter are applicable to all Title II programs including the Home Equity Conversion Mortgage (HECM) insurance program, unless otherwise stated.

Effective Date

This Mortgagee Letter is effective immediately for all condominium project approvals, recertification applications, annexations or reconsideration submissions submitted for review. These additional temporary provisions expire one year from the date of this Mortgagee Letter.

Affected Topics

Below is a list of the topics in the subject Condominium Project and Approval Processing Guide (Guide), attachment to Mortgagee Letter (ML) 2011-22, Mortgagee Letter 2012-18, and Mortgagee Letter 2014-17, that extends the temporary provisions of ML 2012-18, revised by this Mortgagee Letter:

- Section 2.1.13 Legal Phasing and Section 3.5 Owner-Occupancy Requirements
- Section 2.1.9 Insurance Requirements
- Section 2.3 Recertification Requirements and Appendix E-2

The policies referenced above are superseded to the extent they conflict with the policies in this ML.

Calculation of Required FHA Owner-Occupancy Percentage

The procedure for calculating the required owner-occupancy percentage is modified to allow units that are not investor-owned to be considered owner occupied for the purpose of Condominium Project approval.

For the purpose of Condominium Project approval, a unit is considered to be investor-owned if the unit is:

- Tenant Occupied;
- Vacant and listed for rent;
- Existing (previously occupied), vacant and listed for sale; or

- Under contract to a purchaser that does not intend to occupy the unit as a Principal Residence or Secondary Residence. The term Principal Residence and Secondary Residence have the same meaning as defined in Handbook 4000.1.

For purposes of calculating the owner-occupancy percentage:

- on multi-phased projects, the owner-occupancy percentage is calculated on the total number of units in the first declared phase and cumulatively on subsequent phases; or
- for single-phase condominium project approval requests, all units are used in the denominator when calculating the required owner-occupancy percentage.

Documentation of Calculation of Required FHA Owner-Occupancy Percentage

For each unit qualifying as owner-occupied, the mortgagee must document the following:

Existing

- evidence that units have closed and are owner-occupied

Proposed/Under Construction/Gut Rehabilitation

- evidence that units have closed and are owner-occupied; or
- submission of copies of sales agreements and evidence (loan commitment) that a mortgagee is willing to make the loan; or
- a list from the builder/developer of all units already sold, under contract, or closed (e.g. a spreadsheet, chart, or listing used for the company's own tracking purposes) that are owner-occupied, accompanied by a signed certification from the builder/developer.

Acceptable data sources include but are not limited to the Homeowners Association, Mortgagee's required Homeowners Association Questionnaire, third-party vendors who maintain condominium or tax roll data. The condominium project application package must include the source document that verifies the data.

Expansion of Eligible Insurance Coverage

The Homeowners' Association (HOA) is required to maintain adequate "master" or "blanket" property insurance in an amount equal to 100% of current replacement cost of the condominium exclusive of land, foundation, excavation and other items normally excluded from coverage.

Insurance coverage for condominium project approval that consists of pooled policies for affiliated projects, state-run plans, or contains coinsurance obligations on the part of the policy holder is permitted to satisfy this requirement as provided below; however, the unit owner is not permitted to satisfy the requirement by obtaining "gap" coverage.

Coinsurance Policies

To be eligible, any policy with a coinsurance clause must include an Agreed Amount Endorsement or selection of the Agreed Value option. If an Agreed Amount/Agreed Value provision is exercised, the Agreed Amount must be no less than 100% of the estimated replacement value. Otherwise, the policy is still eligible if acceptable evidence is provided that confirms that the amount of coverage is at least equal to 100% of the insurable replacement cost of the project improvements. Improvements do not include land, foundations, excavation and other items normally excluded from coverage.

Pooled Insurance Policies

Affiliated projects include those that are under the same master association or share the use of common facilities that are either owned individually or as part of a master association or development. Standard insurance policies that pool coverage for affiliated projects or projects operating under a single set of bylaws may satisfy insurance coverage requirements only if there is 100% current replacement cost coverage for each project insured under the policy.

State-Run Plans

State-run plan coverage is acceptable if other standard insurance coverage is unavailable. Under standard state insurance plans, a nonprofit or government entity provides insurance. Such state-run plans may be acceptable only if the owner is unable to obtain standard insurance coverage elsewhere.

Revisions to the FHA Recertification Requirements

FHA condominium approvals will expire two years from the date of placement on the list of approved condominiums. Further participation in the program after expiration of this two-year period requires recertification of the project to ensure that the project is still in compliance with FHA's eligibility requirements and that no conditions currently exist which would present an unacceptable risk to FHA. The following requirements apply to all recertification requests:

General Requirements

Submission Time Frame	No earlier than 6 months prior to the approval expiration date or no later than 6 months after the approval expiration date. If not submitted within the stated timeframes, the project is not eligible for recertification but must re-apply for full project approval.
Eligible Submitters	Packages may be submitted by the mortgagee, builder, developer, homeowners association, management company, attorney or project consultant. Packages received from borrowers, homeowners, sellers, real estate agents or other sources will not be processed without prior approval from FHA.
Eligible Processing Options	May be reviewed using the HUD Review and Approval Process (HRAP) or the Direct Endorsement Lender Review and Approval Process (DELRAP) options.
Submission Package Location	HRAP – submitted to the jurisdictional Homeownership Center (HOC). DELRAP – submitted to the DELRAP participating lender.
Incomplete Packages	Only one (1) PDF file may be submitted and incomplete packages will not be processed.
Annexations/Legal Phasing	The submission package must include all legal phases approved to date. Annexations cannot be reviewed and approved until the recertification process is completed.
Data Entry Requirements	Reviewer must enter all data and other pertinent information into the Condominium Maintenance Screen in FHA Connection regardless of the action

	taken – approval or rejection.
Withdrawal of Recertification Approval	If processed under DELRAP, the approving mortgagee's cases (originated or underwritten) are ineligible for FHA insurance endorsement. Cases processed by other mortgagees based on the withdrawn project approval are eligible for FHA insurance endorsement.
Withdrawn or Rejected Projects	Are ineligible for recertification and require full condominium project approval.
Recorded Documents	No loan may be insured in a project until the recorded documents are received by FHA. If legal documents, per state law, are not enforceable prior to recordation, copies of recorded documents must be included in the submission package.

Required Documentation

- Recertification Checklist;
- Project Certification (Appendix A);
- Recorded Amendments to the Declaration not previously submitted;
- Financial Documents;
- Management Agreement (as applicable);
- Leasehold Agreement (as applicable);
- Affordable Housing Agreement (as applicable);
- Special Assessments (explanation if applicable);
- List of legal actions against the Association, its officers, or directors that are pending, current or settled within 12 months prior to recertification (explanation if applicable);
- Evidence of adequate project insurance coverage for hazard, liability, flood insurance coverage and other required insurance as specified by HUD/FHA;
- Completion of data requested on Recertification Checklist; and
- Other documents specified by HUD/FHA.

About the Author

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