
FURTHER IMPACTS OF FHA PROJECT APPROVAL CHANGES:

- > Fannie Mae and VA Respond
 - > Additional Burdens on Lenders and Developers to Consider
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As described in greater detail in our November 12, 2009 e-Update, "FHA Responds to Market Conditions," the Federal Housing Administration ("FHA") instituted entirely re-vamped processes and requirements for obtaining FHA condominium project approval that became effective December 7, 2009. The changes are sweeping and virtually eliminate many project legal requirements that had been unchanged since 1980. As a result of these changes, the United States Department of Veterans Affairs ("VA") announced, in its Circular 26-09-19, that it will no longer accept FHA approvals, and Fannie Mae announced, in its Selling Guide Announcement 09-37, that it will not accept FHA approvals for loan applications dated on or after February 1, 2010. FHA-approved projects must go through the same application and review process with VA and Fannie Mae as any other project. Formerly, an FHA approval could be "converted" to a VA or Fannie Mae approval through an abbreviated process.

Lenders may now either submit a condominium project to FHA for review or may independently review and certify compliance of the project with FHA's requirements without obtaining FHA review. FHA project approvals now have a two-year term. When that term expires, the project must be re-approved through the new process. Existing project approvals issued before October 1, 2008 will expire December 7, 2010; the remainder will expire two years after the date they were placed on FHA's list of approved condominium projects.

Although the new FHA project approval processes may appear to be more streamlined than their predecessor, the efficiencies are achieved in part by placing greater burdens on the lenders and builders that seek project approval. For example, under both of the new submittal processes lenders and builders are required to certify that various statements are true with respect to the project submitted and that they will notify FHA if any of the statements becomes untrue. The form certification follows this article. Because the consequences of a false certification may be significant (\$1,000,000 fine and/or 30 years in prison) and because FHA has stated that it will enforce available penalties against those making false certifications, careful consideration should be given before any such certification is signed.

For additional information regarding the certification or other aspect of the new FHA condominium project approval process, please contact a member of Luce Forward's Common Interest Development group.

Attachment E**DEVELOPER/BUILDER CERTIFICATION TO CONDOMINIUM REQUIREMENTS**

The undersigned hereby certifies that (1) the Developer/Builder has reviewed the project and it meets all requirements of Section 203(b) of the National Housing Act, 24 CFR 203, State and local condominium laws and any Mortgage Letters thereto applicable to the review of condominiums; (2) to the best of his or her knowledge and belief, the information and statements contained in this application are true and correct, and (3) the Developer/Builder has no knowledge of circumstances or conditions that might have an adverse effect on the project or cause a mortgage secured by a unit in the project to become delinquent (including but not limited to: defects in construction; substantial disputes or dissatisfaction among unit owners about the operation of the project or the owner's association; and disputes concerning unit owners; rights privileges, and obligations). The undersigned understands and agrees that the Developer/Builder is under a continuing obligation to inform HUD if any material information compiled for the review and acceptance of this project is no longer true and correct.

Authorized Representative
(Signature and Title)

Date

Title 18 U.S.C. 1014, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$1,000,000 or imprisoned for not more than 30 years or both. In addition, violation of this or others may result in debarment and civil liability for damages suffered by the Department.