

New FHA certification rules hamper condo sales, refinancings

By Kenneth R. Harney

Is a little-publicized switch in federal mortgage policy causing huge problems for condominium sellers, buyers and homeowner association boards across the country — even depressing prices and blocking refinancings?

Individual owners and realty agents are emphatic that the answer is yes. They say a series of rule revisions by the Federal Housing Administration has caused thousands of common-interest developments to become ineligible for FHA mortgages. This has abruptly shut off loan money for would-be buyers and refinancers, forcing them to pursue conventional bank loans requiring much higher down payments — sometimes 20% or higher versus the FHA's 3.5% minimum — that they often cannot afford.

For its part, FHA says the rule changes it has adopted, which focus on budgets, insurance and financial reserves, have been prudent and are designed to avert losses from delinquencies and foreclosures. But the agency confirms that thousands of developments have failed to obtain or apply for required recertifications under the new rules. Out of approximately 25,000 common-interest developments nationwide with expiration dates for FHA eligibility between last December and Sept. 30 of this year, only 2,100 — just 8.4% — have been approved or recertified by the agency, according to Lemar Wooley, an agency spokesman.

"This has been a nightmare," said Ryan O'Quinn, a homeowner in a town house community in Calabasas. O'Quinn, a member of the board of directors of his homeowner association, has been trying to sell his condo since May. He has had multiple offers and been in escrow four times — twice with the same purchaser — but because the community's eligibility has lapsed, buyers who need FHA financing have been rejected by lenders.

In the meantime, O'Quinn has cut his asking price several times for a total of \$81,000 — a value decline that his agent, Anna Nevares of Redfin, a realty brokerage, attributes directly to FHA's policy revisions. Not only did FHA fail to inform the association board about the changes, according to O'Quinn, but every time the board submitted applications for recertification, they were rejected on technical grounds. In one instance, he said, the agency turned down the application solely because the reserve-fund bank account for the association did not carry the words "reserve fund."

In the Maryland suburbs outside Washington, similar scenarios have been playing out. Nancy Reynolds, executive vice president of Community Paperworks Inc., a consulting firm that assists condo associations, said, "There are entire ZIP Code areas where not one condo can meet the new requirements." Owners in such projects find themselves unable to either sell or refinance into today's 4% mortgage market.

Bernard Robinson, an owner of a condo in District Heights, Md., said that because of delinquencies on homeowner association payments in his development that exceed FHA's limit, he and his wife have not been able to refinance.

"We are qualified to refinance personally," he said, but because the development is not certified, "our unit isn't. We've exhausted all our options. They're going to force us to walk away."

Critics say that FHA did not consult adequately with the condo industry before changing its rules — a charge FHA denies — and contend that the agency did not think through some of its policies. Andrew Fortin, government affairs director of the Community Associations Institute, said the rule that is hampering Robinson's refinancing — that no more than 15% of the units in a development be 30 days or more delinquent on their association dues — is often impossible for volunteer boards of directors in large projects to keep track of, much less to certify to FHA.

Even worse, according to other critics, the new rules put board members into legal jeopardy by requiring them to sign certifications attesting that the governing documents comply with all local statutes and that they have no knowledge of situations that could cause any owner to become delinquent at some later date. The mandatory certification carries a maximum penalty of \$1 million in fines and 30 years' imprisonment if found

to be incorrect. Large numbers of association boards have balked at this requirement, critics say, leading to the drastic drop in certification requests and eligibility.

Bottom line for owners, sellers and buyers: If an FHA loan figures in your plans, first check with the association board. If the development isn't certified, you are cut off — at least for now — from some of the most favorable mortgage terms in the marketplace.

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