

## **F.H.A. CONDOMINIUM PROJECT APPROVAL FACT SHEET ( As of July 1, 2011 )**

- 1) FHA requires that the condominium legal documents be fully recorded. However, we can submit with unrecorded documents that must be in their final form and ready for recording. The documents must be fully executed and notarized. Please note that while FHA will accept unrecorded documents for initial submission they will not insure any closed loans in a project until such time as the fully recorded documents have been provided.
- 2) Condo conversions ( gut-rehab and non gut-rehab) must be created and declared in one single phase. Legal phasing of a condo conversion is not permissible. FHA will also require that the condominium legal documents for a conversion be fully recorded at the time we submit our application for project approval. Further, a current (no more than 2 years old) reserve study prepared by a qualified, independent professional company is required along with an engineers report that comments favorably on the structural integrity of the project and the remaining useful life of major project components.

For non gut-rehab conversions ( i.e. rental conversions) a developer may own up to 49% of the total units; they may be tenant occupied or vacant. The requirement that no investor / single entity may own more than 10% of the units does not apply to the developer.

- 3) The builder will be required to warrant against defects in workmanship on units for at least one year after closing. HUD Form 92544, Builders Warranty will be required for submission and for each loan package.
- 4) For any ground up new construction condominium project that is located in a FEMA Designated 100-year flood plain HUD will require a Letter of Map Revision (LOMR) from FEMA. Absent a LOMR FHA will require an Elevation Certificate showing that the lowest flood elevation is above the FEMA base flood elevation. In these cases the project is still technically in a flood plain and the condominium's master insurance policy will be required to carry appropriate flood insurance.
- 5) The condominium budget must include a line item expense for **replacement reserves** for replacement of major capital items (i.e. roofs, paving, common area HVAC, carpeting, pool equipment, etc...). The amount of reserve funding must be for at least **10%** of the annual assessment income in the budget. Any amount less than 10% would have to be supported by a full replacement reserve study that is less than 1 year old.
- 6) The condominium legal documents must comply with all state & local laws.

**NOTE: FHA will permit a Right of First Refusal in the condo documents as long as the provisions outlined do not violate any discriminatory conduct as detailed in 24 CFR 100 of the Fair Housing Act.**

- 7) Projects that are subject to Affordable Housing deed restrictions require that the deed restrictions comply with the provisions of 24 CFR 203.41 that deals with restrictions on conveyance. Essentially it must provide the any deed restrictions terminate in the event of a foreclosure. In addition the condominium legal documents must specifically identify those units that are deed restricted. If the terms of the deed restrictions do not meet FHA guidelines the project can still be approved but the designated restricted units will be excluded from the project approval and those units will not be eligible for FHA insured financing.
- 8) For New Construction or Gut-Rehab conversions FHA will require that at least 30% of the units in the project ( OR subject LEGAL PHASE if a phased new construction project) be under contract or closed. It will be up to the lender to certify to the owner occupancy / presale requirement at the time a closed loan is submitted for insurance endorsement.
- 9) For proposed, under construction or existing construction ( < 1 year old ) FHA will allow a minimum owner occupancy amount equal to 30% of the declared units. ONE YEAR after the first unit is closed the requirement is that at least 50% of declared units are owner occupied.
- 10) For projects where construction of the project has progressed beyond the stage where HUD can have any influence over remaining uncompleted construction they will not be required to perform an environmental site review / field inspection. However a Phase 1 environmental site assessment is still required in order to confirm that there are no adverse environmental conditions associated with the site. The Phase 1 ESA must be less than 12 months old at time of submission to FHA. Further, if the Phase 1 ESA identifies any requirements for additional remediation FHA will require evidence that all such remediation work has been completed.
- 11) No more than 25% of the total floor area in a project can be used for commercial purposes. The commercial space must be of a nature that is homogenous with residential use and is free of adverse conditions to the occupants of the condominium.
- 12) No more than 10% of the units may be owned by any single investor. This includes the developer / builder who rents out unsold / vacant inventory units.
- 13) No more than 15% of the total units in the project can be in arrears (more than 30 days past due) on condo association fee payments.
- 14) Projects consisting of 4+ units will be limited to a maximum of 50% of the project encumbered with FHA financing. Projects consisting of 3 or less units will be limited to one (1) unit encumbered with FHA financing.

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