

New Federal Mortgage Requirements and Impact on Associations

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Mortgage Disclosure Requirements

- A. Previous Requirements ICPA and CICAA
 - 1. Disclosures pursuant to ICPA Section 22.1 and CICAA Section 1-35(d)
 - 2. Paid Assessment Letters

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Mortgage Disclosure Requirements

B. Recent Changes in Disclosure Requirements

1. Response to Champlain Towers South condominium collapse
2. New regulations require extensive information associated with the condition of associations and co-ops
3. FNMA or “Fannie Mae” effective as of 1/1/22 and applies to projects with five or more attached units
4. FHLMC or “Freddie Mac” effective on all mortgages with a Settlement Date (i.e., the date of funding) after 2/28/22

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Fannie Mae

A. Condominium Project Questionnaire - Form 1076: Upon sale or refinance, the association will need to provide additional information in four specific areas:

1. Long-term financial condition
 - a) The lender is expected to obtain the financial documents necessary to confirm the association has the ability to fund any repairs
 - b) Special assessments will be reviewed to determine acceptability and must be documented with the following:
 - I. The reason for the special assessment: If the special assessment is related to safety, soundness, structural integrity, or habitability, all related repairs must be fully completed;

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Fannie Mae

- II. The total amount assessed and repayment terms;
 - III. Documentation to support that there is no negative impact to the financial stability, viability, condition, and marketability of the association; and
 - IV. Borrower qualification with any outstanding special assessment payment
- c) Reserves Requirements: Ten percent budget reserves are required, regardless of reserve study assessments (and in addition to any special assessments that may be in place)

2. Structural Integrity (See Deferred Maintenance)

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Fannie Mae

3. Deferred Maintenance Information

- a) Projects with unsafe conditions and/or significant deferred maintenance may be considered ineligible for FNMA mortgages
- b) Significant deferred maintenance includes deficiencies which may require full or partial evacuation of the building to complete the repairs for more than seven days or an unknown period of time
- c) The association has deficiencies, defects, substantial damage, or deferred maintenance that:
 - i. is severe enough to affect the safety, soundness, structural integrity, or habitability of the improvements;
 - ii. the improvements need substantial repairs and rehabilitation, including many major components; or
 - iii. impedes 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 system, HVAC, or plumbing

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Fannie Mae

- d) These policies do NOT apply to routine maintenance or repairs that an association undertakes to maintain or preserve the integrity and condition of its property
- e) Does NOT apply if damage or deferred maintenance is isolated to one or a few units and does not affect the overall safety, soundness, structural integrity, or habitability of the improvements then these project eligibility requirements do not apply

4. Building Code Issues

- a) In the event there is a violation of any federal, State or local law, ordinance or code relating to zoning, subdivision and use, building, housing accessibility, health matters or fire safety issues, the association will be ineligible for a loan
- b) Applies to new developments which will need a certificate of occupancy in order for the developer to close the sales of units

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B. These new requirements were created to “[remind] lenders that their appraisers must document any special assessments or deferred maintenance that may impact the safety, soundness, structural integrity, or habitability of the unit or the overall project and its amenities.” Along with reserve studies and appraisals, below are some of specific documentation guidelines outlined by Fannie Mae:

1. Board Meeting Minutes
2. Engineering Reports
3. Inspection Reports
4. Acceptable certificate of occupancy
5. Local regulatory inspections or recertifications

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Freddie Mac

- A. Mortgages secured for units in Condominium or Cooperative Projects in need of Critical Repairs are not eligible for sale to Freddie Mac
- B. Acceptable sources of documentation to determine if a project is in need of Critical Repairs may include but are not limited to:
 - 1. Homeowners' association (HOA) or cooperative board meeting minutes
 - 2. Engineer's reports
 - 3. Reserve studies
 - 4. List of necessary repairs provided by the HOA, Cooperative Corporation or management company, and
 - 5. Other substantially similar documentation

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Freddie Mac

- C. Critical repairs are defined as repairs and replacements that significantly impact the safety, soundness, structural integrity or habitability of the project's building(s) and/or that impact unit values, financial viability or marketability of the project. These repairs and replacements include:
 - 1. All life safety hazards
 - 2. Violations of any federal, State or local law, ordinance or code relating to zoning, subdivision and use, building, housing accessibility, health matters or fire safety
 - 3. Material Deficiencies (unresolved problems which cannot be addressed by normal operation or routine maintenance)
 - 4. Significant Deferred Maintenance (the postponement of normal maintenance, which cannot reasonably be resolved by normal operations or routine maintenance)

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D. These temporary requirements do not apply to:

1. Routine Repairs and Maintenance (i.e. repairs and maintenance that are expected to be completed by the project in the normal course of business and are nominal in cost). Factors to determine if Routine are the following:
 - i. Often preventative in nature
 - ii. Accomplished within the project's normal operating budget
 - iii. Typically completed by on-site staff
 - iv. Focused on keeping the project fully functioning and serviceable
 - v. Minor deficiencies with a cost of \$3,000 or less per repair item that do not warrant immediate attention but that require repairs or replacements that should be undertaken within the next 12 month
 - vi. Scheduled repairs and maintenance that are fully funded, may have a cost greater than \$3,000 and will be undertaken within the next 12 months
2. Damage or deferred maintenance to one or a few units in the project, provided that there is no impact to the overall safety, soundness, structural integrity, or habitability of the improvements

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Freddie Mac

E. Special assessments are reviewed to determine eligibility

1. Applies to special assessments, even if paid in full for the subject unit
2. Includes any special assessment that the board approved and, if required, owners approved but the board has not initiated collection yet (e.g., a planned special assessment)
3. Eligibility factors include the following:
 - i. reason for the special assessment;
 - ii. the total amount assessed;
 - iii. the total amount is an appropriate allocation to fund the reason for the special assessment and
 - iv. for current special assessments, any shortfall between the budgeted and actual year to date amounts for the special assessment must not be more than 5%

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Freddie Mac

F. Freddie Mac is not changing reserve requirements for any project review. Sellers may continue to rely on a working capital fund for New Condominium Projects or a reserve study, for both Established and New Condominium Projects, when the project's budget provides less than 10% replacement reserves

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Next Step for Board Member and Property Managers

- A. Board members are volunteers, not experts but still have a duty to maintain and improve property values within their condominium and common interest community associations
- B. Board members and property managers must pre-emptively plan and deal with repair and safety issues
 - 1. Fears of increasing assessments or levying special assessments can lead to underfunded reserves
 - 2. Deferred maintenance can discourage sales
 - 3. Ignoring the warning signs and poor planning can create a costly crisis
- C. Obtaining assistance with new guidelines in order for potential buyers to be eligible for a loan

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Questions?



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Thank you

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