This presentation is based on policy guidance issued in Mortgagee Letters 2011-22, 2012-18 and the Condominium Project Approval and Processing Guide. The presentation was customized for Puerto Rico.
Who Approves Condominiums?

Condominium projects are approved by either FHA Staff or by FHA-Approved Mortgagees who meet the defined eligibility and authorization requirements to determine project eligibility and certify to compliance with section 203(b) of the National Housing Act (NHA) and 24 CFR parts 203 of FHA’s regulations.

There are the two project approval processing options:

- **HRAP – HUD Review and Approval Process**
  - The lender, homeowners association, management company, attorney or project consultant submits all required documentation to the Homeownership Center where the condominium is located for project approval.
  - Processing time for initial, recertification, annexation and reconsideration requests is 30 calendar days.

- **DELRAP – Direct Endorsement Lender Review and Approval Process**
  - The participating lender will establish their processing times.
Eligibility

Eligible Projects: are those that have been declared and exist in full compliance with applicable state law requirements of the jurisdiction in which the condominium project is located, including good standing with the State, and with all other applicable laws and regulations.
  • Eligible condominiums must be: Primarily residential and contain at least 2 dwelling units.

Ineligible Projects: FHA will not insure mortgages that are secured by units in ineligible projects. Some project types that typically are uninsurable include (The list below is not exclusive):
  • Projects not primarily used as residential; Projects with more than 25% of nonresidential space (unless an exception is granted); Condominium Hotels; Projects in Coastal Barriers; Timeshares; Houseboats; Multi-dwelling units; Assisted living facilities; Projects where the developer retains ownership of common areas; etc.
What Changed?


- ML 2012-18 announced 9 temporary condominium project approval guideline changes. The changes will be in effect until August 31, 2014, unless further extended by FHA.

  a) The sections amended by ML 2012-18 are: 1.5, 1.5.1, 2.1.3, 2.1.4, 2.1.5, 2.1.9, 2.4, 3.4 and 3.5.
What Changed? ...Continued

• “Spot loans” were eliminated by ML 2009-46b. All applications for the approval, recertification, annexation and reconsideration must be submitted under the requirements and regulations of ML 2011-22 or the temporary provisions established by ML 2012-18.

• Refinance transactions, with the exception of streamlines must follow ML 2011-22 and/or 2012-18 requirements.

• The waiver of the HO-6 insurance policies expired; however, this insurance coverage is required.

• Appendix E-3 was added for phase annexations.
Delinquency & Concentration Waivers

- No more than 15 percent of the total units can be in arrears (more than 60 days past due) on their condominium association fee payments (does not include late fees or administrative expenses). The 15 percent includes all units (occupied, investor, bank owned and vacant). No exception requests will be granted.

- Typically, the concentration of FHA loans within a project should not exceed 50% of the units. However, the AHOC may consider up to 100% concentration as long as the project complies with all the requirements shown on page 45 of the Condominium Project Approval and Processing Guide (ML 2011-22 Guide).
  - Proposed, under construction, gut-rehabilitation conversions are not eligible for this exception.
Reserve Fund

Puerto Rico law established a minimum reserve fund of 5%; however, eligibility for FHA condominium project approval requires a minimum reserve fund representing not less than 10% of the assessment.

Additionally, a review of the financial documents must show that the budget and operating results are sufficient and:

- Include allocations/line items to ensure sufficient funds are available to maintain and preserve all amenities and features unique to the condominium project; and
- Provide for the funding of replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10 percent of the assessment; and
- Provide adequate funding for insurance coverage and deductibles.

In cases where the budget does not meet these standards, a reserve study may be requested.
## Reserve Fund - Calculation

**2014 Budget**

<table>
<thead>
<tr>
<th>Income</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>HOA Fee’s</td>
<td>$125,822</td>
</tr>
<tr>
<td>Laundry Machines</td>
<td>$852</td>
</tr>
<tr>
<td>Parking Rentals</td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>Total Income</strong></td>
<td><strong>$136,674</strong></td>
</tr>
</tbody>
</table>

In the example above, the total assessment income was forecasted as $125,822. Therefore, the reserve should be no less than $12,582.20 ($125,822 X 10%).
General Package Requirements

• If available, recorded documents should be submitted. Recorded documents are required for all existing and condominium conversion projects submitted for project approval. Unrecorded documents may be submitted for proposed or under construction projects if recorded documents are unavailable; however, no loan will be insured in the project until recorded copies of all documents are received. In localities were only recorded documents are enforceable by law, only recorded documents will be accepted.

• Acceptable proof of registration include official CRIM (Centro de Recaudación de Impuestos Municipales) seal, official seal of local municipality or Certificate of Registry (Asiento de Presentación).

• If there is a change in sponsorship, all legal documents must be submitted regardless of the stage of construction.
Approval Package...Continued

Legal Documents (continued):
• Recorded condominium site plans must bear the seal or the official seal of the local municipality (i.e. ARPE, OGPe, etc).

Financial Documents:
• Current year’s budget*.
• Previous year’s actual year-end results (Income and Expense Statement*).
• Current balance sheet to support adequacy of Budget (current balance sheet dated within the last 90 days).

Note: Reserve Study required if budget is deemed inadequate to support project.

* Document must show the reserve allocation.
Approval Package...Continued

Appendix A, Project Certification: The certification must be submitted with all submission packages and must be on letterhead, and fully executed (Most current version is located in page 12 of ML 12-18. Additionally, the document must be signed and dated).

Appendix E-1 (New Approvals, Pages 77-84); Appendix E-2 (Recertification, Pages 85-92) or Appendix E-3 (Annexation, Pages 93-94).

Condo Legal Documents, including all amendments:
• Recorded Plat Map indicating legal description.
• Recorded covenants, conditions and restrictions CC&R’s)/Declaration/Master Deed.
• Signed and adopted bylaws.
• Since Puerto Rico law does not allow incorporation, a copy of the State statute must be submitted.
Approval Package...Continued

- **Management Agreement** – signed (Must be current).

- **FEMA Flood Map** (must be official FEMA Flood Map); must identify location of project on FEMA Flood Map;
  - Flood certification is acceptable to augment the FEMA Flood Map but cannot replace it.
  - LOMA, LOMR or an Elevation Certificate are acceptable; however, an Elevation Certificate may not be used for proposed or under construction projects.

- **Evidence of Required Insurance:**
  - Master Flood Insurance (as applicable).
  - Liability Insurance.
  - Hazard Insurance.
Approval Package...Continued

Evidence of Required Insurance (continued):

- Fidelity Bond (Could also be titled as Employee Dishonesty or Crime Policy). Must comply with the requirements of ML 2012-18, pages 7-8.
- Current Declaration pages for all policies required.
- Meet the requirements of the Insurance Waiver issued November 27, 2013.

Questions:
New requests (Appendix E-1) – Complete questions on pages 81 thru 84
Recertification (Appendix E-2) – Complete questions on pages 88 thru 92
Insurance Guidance

Hazard Insurance
Homeowners association must:

• 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.
• If the HOA does not maintain 100% coverage, the unit owner may not obtain “gap” coverage to meet this requirement.
• Co-Insurance is not allowed.
Insurance Guidance...Continued

Fidelity Bond/Fidelity Insurance
Also known as: known as “Employee Dishonesty” or “Crime Policy”
Homeowners association must (projects with more than 20 units):

- The homeowners association must maintain this insurance for all officers, directors, and employees of the association and all other persons handling or responsible for funds administered by the association.
- The coverage must be no less than a sum equal to 3 months aggregate assessments on all units plus reserve funds unless State law mandates a maximum dollar amount of required coverage.
- If the condominium association engages the services of a management company, the condominium bond must include a “Covered Employee” endorsement stating coverage is included for the management employees performing services to the homeowners association.
Insurance Guidance...Continued

Fidelity Bond/Fidelity Insurance - Calculations

<table>
<thead>
<tr>
<th>2014 Budget</th>
<th>Balance Sheet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income:</td>
<td>Reserve Acct</td>
</tr>
<tr>
<td>HOA Fee’s</td>
<td>$234,853</td>
</tr>
<tr>
<td>Laundry Machines</td>
<td>$234,853</td>
</tr>
<tr>
<td>Parking Rentals</td>
<td></td>
</tr>
<tr>
<td>Total Income</td>
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<td>Total Income</td>
<td>$136,674</td>
</tr>
</tbody>
</table>

Then, the minimum fidelity bond will be $266,309

$125,822 (HOA Fee) /12 = $10,485.17 (Monthly HOA Fee)
$10,485.17 (Monthly HOA Fee) x 3 months = $31,455.51 (3 Month aggregate)
$31,455.51 (3 Month aggregate) + $234,855 (Reserve Account) = $266,309 Minimum fidelity bond (Rounded)
General Guidelines

• All condominium approval packages must be submitted in writing; paper or CD (including a hard copy of the cover letter). CDs are the preferable submission media.
• Documents should be submitted in the order in which they appear in the Guide (Appendices E-1 thru E-3) for the type of submission being presented (New approvals, recertification or annexations). Preferably, the sections should be labeled.
• The Master Deed and/or other voluminous documents may be submitted in a CD (Compact Disc) - only 1 CD made be submitted with all required documentation.
• All applications for Condominium Approval must be submitted to the San Juan office for registration.
• Recertification applications will be processed by the San Juan office. New applications will be transferred to the AHOC for processing.
General Guidelines...Continued

• Condominium Approvals are for two years.

• The recertification process may be started six months prior to the expiration of the approval and must be completed no later than six months after its expiration date.

• Projects whose expiration date is greater than six months requires complete approval.

• All required insurance coverage must remain in effect for continued eligibility.

• For existing projects (Not including Gut-Rehabilitation), investors or other entities may own no more than 50% of the units at the time of the application.
General Guidelines...Continued

• Commercial concentration should not exceed 25% of the project area unless an exception is granted. The AHOC can consider up to a 35% commercial concentration as long as the project complies with all the requirements shown on pages 5-6 of ML 2012-18. Exception requests for projects not meeting the 25 and/or 35% commercial concentration may be submitted for exception processing based on the requirements defined on pages 5-6 of ML 2012-18.

• Even if a project is shown as approved, it could be removed at any time should any of the condominium approval requirements be found to be deficient.

• Pursuant to the requirements of ML 2011-22, all legal documents must be submitted for both new condominiums and condominium recertifications.
References:


Condominium Mortgage Insurance Web Page:

FEMA Flood Maps: www.fema.gov


Frequently Asked Questions: www.hud.gov/answers
Questions and Answers: Q & A
Thank you for your interest and participation.