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Buyers stymied by tough rules on condos

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Raymond Lugo can't buy the \$94,000 condo he had his eye on at Treetops Lofts on Miami's Upper Eastside, but he can buy a smaller, higher-priced loft at a building called The Bank on nearby Biscayne Boulevard.

The reason: complex federal rules that make it extremely tough for buyers to qualify for loans in many South Florida projects, unless they pony up steep down payments.

Those rules, recently made even more rigid, could undermine any recovery in the region's depressed condo market -- and drive unit prices even lower -- just as demand seems to be on the upswing.

"There is this tide of demand out there," said Grant Stern, a Bay Harbor Island mortgage consultant. "But the access to capital has been stalled on thousands upon thousands of units at a time when all of the real-estate market is extremely fragile."

Here's why:

Burned by soaring default rates on South Florida condos, banks have become as careful about vetting the buildings where they make loans as they are about the borrowers themselves.

That means buyers, if they are lucky enough to get a mortgage, have to put down 40 percent or more on condo purchases -- unless a project meets regulations set forth by the Federal Housing Administration or Fannie Mae, the government-sponsored corporation that buys or backs mortgages.

A recent change by Fannie Mae has made it especially tough for South Florida projects -- especially newer ones -- to qualify.

Particularly vexing is a new rule requiring that up to 70 percent of a new project's units be pre-sold and that no more than 49 percent be owned by investors.

That eliminates scores of new South Florida projects, especially in the new-construction belt between the Julia Tuttle and Rickenbacker causeways. Many newer condo units in that area were snapped up by speculators who never intended to live in them but saw them as investments to flip for quick profits.

Peter Zalewski, principal of Condo Vultures, a Bal Harbour real-estate services firm, estimates that by the time all new units in the condo belt are delivered, as many as two of every three sales will have been made to investors.

For instance, at the Axis at Brickell, 1111 SW First Ave., buyers who are living in their unit -- or use

it as a second home -- account for just 18 percent of closings, according to research by Condo Vultures. At the Club at Brickell Bay, 1200 Brickell Bay Dr., it's 14 percent.

Another new Fannie Mae rule could further chill sales at existing South Florida buildings. It bars Fannie Mae from backing a loan in buildings where more than 15 percent of the unit owners are 30 days past due on association fees.

With so many units in default, many South Florida projects have a huge number of delinquencies. Condo associations are raising fees on owners in good standing to make up the shortfall.

Fannie Mae put the new rules in place, in part, to prevent buyers from taking out loans on properties that could lose value in the months ahead. But making loans harder to acquire can actually push prices lower still.

"There is no question developers are discounting so dramatically because it is virtually impossible to obtain Fannie certification," Zalewski said.

With sales so sluggish, many developers fear defaulting on construction loans and losing control of their projects.

"Everybody is in danger," agreed developer Inigo Ardid, vice president of Key International, which built The Ivy at Riverfront and Mint, both new condo projects along the Miami River. "Every [developer] that is delivering recently is in danger of defaulting, but hopefully lenders will hold off until the smoke clears with the borrowers."

In a meeting in Boca Raton on Tuesday hosted by U.S. Rep. Ron Klein of Boca Raton, Fannie Mae representatives promised a roomful of industry professionals to be flexible when reviewing projects for approval.

"We know there are some projects out there that don't meet our stated requirements, so we just want to work with them on a one-on-one basis to do a risk assessment and see if we can't make some exceptions," said Jack King, Fannie Mae's director of project standards.

50 Biscayne, a project completed last year, recently won approval for Fannie Mae-backed loans even though more than 49 percent of the units are owned by investors, according to Condo Vultures research.

In a building that wins Fannie Mae's blessing, buyers generally can secure a mortgage with 20 percent down. In buildings that lack it, most sales are cash deals at prices vastly below market value. Many are foreclosure or other distressed sales.

Even projects in which all units have been sold desire the Fannie Mae designation because it allows owners to resell units more easily.

In the current climate, some desperate developers, unable to win Fannie Mae approval, may be pressured to sell units in bulk at wholesale-like prices to hedge funds and other institutional buyers. That is considered a last resort. Others are starting to slash prices to lure individual buyers, Zalewski said.

Ardid, The Ivy's developer, doesn't have to do that. His building was among the first to be approved

locally by Fannie Mae, and he says he is already enjoying an edge over competitors.

"Imagine, [real estate and mortgage brokers] can tell their clients they can close with 20 percent down in my building," he said. "In other buildings, you have to close with 100 percent down."

An even better alternative for developers, however, is winning the coveted FHA stamp of approval, which reduces down-payment requirements to 3.5 percent, just about the lowest down payments anywhere in the current credit crunch, according to Stern.

But the FHA has always required buildings to meet even tougher project standards and legal requirements than Fannie Mae, in addition to undergoing an on-site inspection.

Stern said more developers are becoming aware of the significant economic advantage of FHA approval, since many buyers don't have tens of thousands of dollars saved up. Ardid said he is considering initiating the FHA process.

Being able to sell to people like Lugo, one of many eager buyers locked out of the market by high down-payment requirements, is key to lifting the condo market from the doldrums.

The 45-year-old makeup artist is prepared to pay more money for a smaller unit at the FHA-approved condo, The Bank, partly because he loved it, but mostly because he has enough cash to make a 3.5 percent down payment.

"I have checked around other places," Lugo said. "They all want more than 20 percent."

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