
CHAPTER 2. GENERAL REQUIREMENTS

- 2-1. GENERAL. The project Phase of a condominium is developed procedurally in the same manner as a project developed under other multifamily programs with certain exceptions set forth below. Chapters 6, 7, 8, and 9 of this Handbook contain underwriting instructions relating to condominium project mortgages. The complete processing steps from initial contact with a sponsor through final endorsement of the project mortgage for insurance are as follows:
- a. The Grantor/Sponsor makes the first contact with the HUD-FHA Field Office on the proposal.
 - b. The Grantor/Sponsor prepares the application for Mortgage Insurance (FHA Form 3201 or in conversion cases FHA Form 3280) with related exhibits which outline his proposal. (An annual operating budget is required.)
 - c. HUD-FHA makes a feasibility analysis of the proposal.
 - d. The Feasibility Conference is held and if HUD-FHA and the Grantor/Sponsor are in agreement at the conclusion of the conference, a Feasibility Letter is issued to the sponsor.
 - e. The Grantor/Sponsor prepares forms, exhibits, schematic drawings, and brief specifications and pays his application fee if he files an Application for conditional commitment. (A master plan for the condominium is also required.)
 - f. HUD-FHA reviews the Grantor's/Sponsor's exhibits and issues a conditional commitment to the mortgagee.
 - g. The Grantor's/ Sponsor's architect prepares complete architectural drawings and specifications on the project, including a proper delineation of the unit areas.
 - h. The mortgagee makes application for firm commitment and pays the application fee (unless already paid) and the commitment fee. HUD-FHA reviews the contract drawings and documents and issues the firm commitment. (The fees cannot be less than the per unit fees under the home mortgage program.)
 - i. Initial closing is held and the original credit instrument is endorsed. (Except in insurance upon completion cases, wherein there is a combination initial/final closing.)

- j. The Pre-Construction Conference is held.
- k. The project is constructed.
- l. Cost Certification is made. (As modified by different program approaches.)
- m. Final closing is held.
- n. Figure 1 - The Figure on the following page is self explanatory in illustrating some important considerations in developing a condominium.

2-2. FEASIBILITY CONSIDERATIONS.

- a. Request for Feasibility Analysis. The procedure in the feasibility stage is basically the same for either proposed or existing projects. At the first contact with the HUD-FHA Field Office, the personnel of that office shall fully inform the grantor/sponsor of HUD-FHA processing requirements and procedures, including the grantor's/sponsor's responsibilities in this regard. It must be emphasized to the grantor/sponsor that at the feasibility stage HUD-FHA desires only exhibits that are already in existence or easily obtainable by the grantor/sponsor and that the grantor/sponsor is not to incur any additional costs at this stage of processing. At the conclusion of the interview, the HUD Field Office shall advise the grantor/sponsor as to the exact nature of exhibits necessary for feasibility stage processing of the proposal; and the grantor/sponsor shall be furnished with a kit containing all necessary written instructions and required forms, including Application for Mortgage Insurance. (FHA Form 3201) This application form is used in all stages.
 - (1) Upon making application for feasibility, the grantor/sponsor need only be prepared to furnish that information not marked with solid triangles on the FHA Form 3201. The required information is only necessary to identify access to site, number of units, expected income in terms of assessments, a rough estimate as to costs and requested loan amount. Any additional information the sponsor has should be furnished as well.

condominiums must be filed under Section 234(d) or under Section 236 if the project occupants require assistance prior to its conversion to individual mortgages.

- c. Minimum Number of Units Required for Project Insurance. There must be a minimum of four units to qualify for project insurance under Section 234(d).
- d. Conversion of Existing HUD-FHA Projects Insured Under Other Sections of the Act.
 - (1) As to proposals for the conversion of projects which were covered by HUD-FHA insured mortgages (other than Section 213 management or sales type) to the condominium program under Section 234(c), the Field Office files will reflect much of the information relating to the project. However, it is possible that changes in the physical characteristics of the project may have occurred, especially when the HUD-FHA mortgage insurance has been terminated previously. Accordingly it is necessary to obtain current information regarding the physical and financial condition of the project before an intelligent review of the proposal can be completed. Title must not be conveyed to individual owners until the insuring office is satisfied that the project is physically sound.

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- (2-2) (2) Plot plans, sketches, or site details may not be necessary in every case, but the submission should include update information which may not be contained in the original project files. If improvements alterations or other changes are required, the cost thereof may be financed, under appropriate circumstances, as a rehabilitation loan under Section 234(d). In some instances, it may be possible for the grantors/sponsors to finance such improvements with independent funds. If the latter is the case the form used for conversion, Blanket Commitment for Insurance of Individual Mortgages, (FHA Form 3275-A) will be conditioned with the requirements for repair or rehabilitation.
- e. Conversion from the Project Phase to the Individual Unit Phase. Whether construction has been effected through Section 234(d) or some other Section of the Act, the same basic requirements will apply to the insurance of mortgages on the individual units under Section 234(c). A minimum of four units is

necessary to make the undertaking eligible. The units may be located in one or in several structures within a common estate.

- (1) However, the project, if it consists of 12 or more units, must have been covered by a mortgage insured under some multifamily Section of the Act (other than Section 213, management or sales type). A conventionally financed condominium would, therefore, have to be rehabilitated under Section 234(d) to be eligible.
- (2) Section 213, Investor-Sponsor type projects are eligible for conversion to condominiums as long as the project was previously insured. It is not required that the structure be presently encumbered by the insured mortgage or by any mortgage.
- (3) Except where a release of units from a project mortgage is permitted, it is required that the HUD-FHA project insured mortgage be paid in full or the insurance contract terminated before the family unit mortgages may be insured.
- (4) In insurance upon completion cases, evidence must be shown that the construction or project indebtedness, regardless of its form, is paid off and all units are free and clear of liens. All construction or rehabilitation work must be completed, except for minor items, before title is conveyed to any individual owner.

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- (2-2) (5) The project phase will be closed out in accordance with the FHA Closing Requirements (Initial Endorsement, FHA Form 3257 and Final Endorsement, 3257-G in insurance of advances cases) to accomplish Initial/Final Endorsement. In standard Insurance upon completion cases and in conversions from other Sections of the Act, under a Blanket Commitment for Insurance of Individual Mortgage (FHA Form 3275-A), use FHA Closing Requirements Form 3257-D after the individual Section 234(c) or 235(i) mortgages have been processed in accordance with the instructions in Reference (1) of the Foreword. The FHA Form 3257-H instructions are used only when the insurance is to be terminated immediately after endorsement.

- f. State Securities Requirements. Sponsors of condominium housing projects must ascertain what State requirements, if any, must be complied with prior to solicitation of prospective

purchasers. The States of California and New York, for example, have specialized requirements on this subject.

- g. Testing the Market. It is HUD-FHA policy not to permit solicitation prior to the issuance of the HUD-FHA commitment and HUD-FHA approval of the condominium organizational documents. The purpose of this limitation is to avoid involvement of the consumer's down payments until such time as there has been a thorough study of the proposal by HUD-FHA and it appears reasonably likely that the project will in fact go forward and that adequate consumer safeguards have been established. However, there is no intention to preclude interested parties from ascertaining the number of people in the area who would be interested in the development of a particular housing project, provided that individuals do not obligate themselves at that point to purchase units in the condominium when and if it is formed. A grantor/sponsor must not collect down payments at the time he is thus testing the market, although upon delivery of an information bulletin acceptable to HUD-FHA to the prospective purchaser, he may collect a small amount (not exceeding \$200) to evidence sincerity. This sum must be refundable in the event the undertaking does not materialize within a reasonable time. If the undertaking does materialize, the amounts collected must be applied to the respective purchasers' down payments. In such instances, the grantor/sponsor must be admonished not to make any representations, oral or written, that there have been any HUD-FHA approvals in connection with the project and must be advised that all deposits are to be escrowed in such manner as to fully protect the depositors.

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- (2-2) h. Solicitation of Condominium Purchasers. Solicitation for condominium purchasers can be made before or during the course of construction assuming the parties have obtained blanket commitments for insurance and follow solicitation procedures approved by HUD-FHA. Commitments will be conditioned so as to restrict the conveyance of title until construction has been completed and until the required percentage of condominium purchasers has been obtained; Pending transfer of title pursuant to the condominium plan, the grantor/sponsor may permit occupancy by the condominium subscribers who, until the passage of title, will have the status of rental tenants.
- i. Property Insurance. The HUD-FHA model form for establishing a condominium gives to the mortgagees the right to require

insurance coverage in a manner satisfactory to them.

- (1) In the individual unit phase, the type and/or form of insurance coverage is not a matter for decision by HUD-FHA. At the time a mortgagee submits its claim for payment under the mortgage insurance contract the family unit and the common elements must be undamaged by fire, earthquake, tornado or boiler explosion. Such damage, if any, must be repaired prior to conveyance to the Secretary or the amount of the claim will be decreased (by the amount of HUD-FHA estimate of the decrease in value or the mortgagee's fire and hazard insurance recovery, whichever is the greater) unless the case meets the requirements of Section 234.270(b) of the HUD-FHA Regulations. Accordingly, it is likely that a prudent lender will require insurance coverage. It should be noted, however, that unlike Section 203, damage due to flood has been eliminated from these considerations.
- (2) The Association of Owners presumably will wish to be covered by fire and liability insurance to provide protection against damage suits arising from injuries sustained on the premises. If there is a steam boiler or boilers in operation in connection with the condominium, specific Boiler Explosion Insurance may be desired in an adequate amount. Whether this coverage should take the form of a Multi-Peril policy is a matter for the Association of Owners to decide.

- (2-2) (3) Representatives of the insurance industry have suggested that the most practical method of handling the problem will be a Multi-Peril type of policy covering the replacement cost of the entire building (or buildings) rather than individual policies on each family unit. The policy would be issued to the Association of Owners as Trustee, or as required by the lenders and set forth in the Declaration for all the unit owners as their respective interests shall appear. (Individual owners would not be precluded from obtaining additional insurance should they so desire.) The loss payable clause would provide that losses under the policy shall be adjusted with and be payable to the trustee for the benefit of all individual unit owners and mortgagees as their interests may appear.

In the foregoing case, the property insurance premium may be made a common expense payable as part of the

monthly assessments due the Association of Owners.

- j. Properties That Were Not Previously Covered by a HUD-FHA Insured Mortgage. As a result of the 1968 legislation, a mortgage covering a condominium unit located in a project composed of 11 or less units is eligible for insurance even though the project has not been covered by a HUD-FHA insured project mortgage. Such cases will be processed pursuant to the underwriting provisions of Chapter 6 of this Handbook and Reference (1) of the Foreword.

If the project consists of 12 or more units, the individual units therein are not eligible for HUD-FHA insured financing under Section 234(c) unless the project had been covered by a HUD-FHA insured Multifamily mortgage (other than Section 213 Management or Sales Type), or is rehabilitated under Section 234(d). A distinction is made between a project where construction was commenced prior to August 1, 1968 (the effective date of the Housing and Urban Development Act of 1968), and those where construction was commenced after such date, as discussed below:

- (1) Projects where Construction was Commenced Prior to August 1, 1968. In the case of a project comprising in excess of 11 units where construction was commenced prior to August 1, 1968, without HUD-FHA insured financing, a proposal to convert 11 or less of the units to a

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- (2-2) condominium form of ownership is acceptable where the units are so constructed as to permit such a separation into condominium ownership to be logically and feasibly made. Subsequent condominium of 11 or less units will likewise be acceptable even though they may be a part of the same over-all housing development.
- (2) Projects where Construction was Commenced on or After August 1, 1968. Where a builder contemplates from the start the construction of a condominium development consisting of more than 11 units, but proposes to develop it on a piecemeal basis (composed of small projects of 11 or less units) he will be required to proceed in a multifamily basis under Section 234(d). He would otherwise be improperly avoiding the usual HUD-FHA project conditions, such as prevailing wage requirements, cost

certification, HUD-FHA construction inspections, etc.
In other words, the processing will be on the basis of
12 units or more.