[Viewpoint]

Condo-Financing Rule Delay Has Been Detrimental

A common-sense proposal with nearly unanimous support has been shelved for too long

By Chris Gardner

For mortgage originators, closing more loans is tough enough given the competition, lenders creating their own direct-to-homebuyer divisions and rising interest rates. Add to the list of troubles a curious case of inaction related to condominium financing.

Politics have always been the inescapable byproduct of democracy. Voters elect representatives, who in turn lobby for money and legislation on behalf of their constituency. Inevitable horse trading ensues with quid-pro-quo compromises serving as a politician's currency. Although this dance is expected to happen within legislative bodies, it isn't supposed to happen within federal agencies.

Spot approval

The U.S. Department of Housing and Urban Development (HUD) has many functions, one of which is to maintain the Federal Housing Administration (FHA) mortgage insurance fund, as well as to craft the guidelines that govern lending for FHA residential mortgages.

In 2016, the National Association of Realtors (NAR) lobbied Congress for the passage of H.R. 3700, a bill that — among other things — would ease condominium lending rules and bring back the popular condominium loan program known as "spot approval" or "spot loans." In place from 1996 through 2010, spot approval stood for the proposition that one could obtain an FHA mortgage in a condominium association that was not FHA approved.

Only 6 percent of condo projects or buildings had FHA certification in 2018, according to estimates from the Community Associations Institute, an industry trade group. Units in noncertified buildings are ineligible for FHA mortgages.

The time and cost for HUD to confer FHA approval before these loans can be funded within a condo association has resulted in FHA condominium lending cratering to only 20,630 mortgages issued in 2018. In 2009, the last full year spot approval was in place, FHA insured 97,073 mortgages in condominiums, and that was during the nascent real estate and mortgage meltdown. This is why real estate professionals lobbied to bring back the spot-approval program.

Waiting game

H.R. 3700 unanimously passed both the U.S. House and Senate. President Barack Obama signed the bill into law July 29, 2016. In September of that year, the bill was placed in the Federal Registry for public comment and indicated, among other things, that the name of the new condominium program would be called "single-unit approval."

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In May 2017, HUD Secretary Ben Carson spoke at NAR's midyear convention in Washington, D.C., and stated that HUD was "in lockstep" with proposals to revive spot approvals. In November of that year, he stated that HUD was issuing new regulations "to eliminate hurdles for first-time ownership of a condominium, which is often the initial step on the homeownership ladder."

In June 2018, 174 members of Congress, presumably peeved at the tarantula-like progress of HUD, signed a letter directed to Carson that urged the release of the worded letter to Carson, urging the implementation of the new rules while stating that 10 years "is far too long for this problem to have endured." As of mid-March, the updates still hadn't been implemented.

Inexplicable delay

So, what could explain the delay? HUD has only indicated that it is still working on it. This public position doesn't pass the smell test. Spot approval existed for 14 years before its cancellation in 2010. This isn't a new program that has to be designed from scratch.

Whatever tweaks necessary to implement the program nine years later could have been accomplished long ago. HUD has condominium-underwriting rules in place now that are so good, the default rate on condos is lower than that of single-family homes. HUD almost certainly isn't going to change rules that are working and make condominium loans more risky under the guidelines.

These developments, or lack thereof, beg the question of why a duly enacted law has not been implemented. Are politics at play here? It's possible that the Trump administration could be causing the delay for implementation of an Obama-era rule change. The Trump administration already tossed out, via executive order, a planned Obama-approved reduction of monthly mortgage insurance premiums for FHA loans.

Could HUD staff be intentionally dragging their feet? Agency staff may be upset about being directed by a Cabinet member with no experience in housing or running a large organization, and could be attempting to derail the administration's efforts. What is happening behind the scenes at the federal agency can only be speculated on.

Harming seniors

Whatever the reason for the delay, it is inflicting significant collateral damage on the nation's senior population. With so few condo associations approved by the FHA, senior citizens can't get vital financing that they need, including reverse mortgages.

Thirty-five percent of the people living in condominiums are 62 or older, according to statistics aggregated by FHAPros. That makes for a target-rich environment for reverse mortgage lenders and originators looking to sell their loan products. The critical component of spot approval bypasses the need to involve both the property manager and condo-association board, the two biggest obstacles to certification. It is the proven and fast-track solution to the problem facing seniors who are looking for a reverse mortgage under the current framework.

The bottleneck should never have lasted this long. The mandate isn't coming from the president or the HUD secretary — it's coming from Congress, from both Democrats and Republicans. Politics have no place in a department that is so vital to the needs of the nation's housing industry and its elderly population. ■

Chris Gardner is founder of FHAPros, a real estate technology company focusing on condominiums. Gardner is considered one of the nation's experts on the subject of condominiums. He started working at age 6 as a child actor, then went on to become an accomplished chef before graduating from law school. He worked for 15 years as a mortgage originator and real estate broker before starting his company. Reach Gardner at (818) 338-6517 or cgardner@fhaprosllc.com.