

New condo loan rules could hurt distressed areas

By ADRIAN SAINZ

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MIAMI (AP) — Money is already tight at The Wilshire Condominium, and new lending rules threaten to make life even more difficult for it and other condos around the country.

Arthur Barr, a board member of the Wilshire homeowners association, estimates 30 percent of the owners in the 378-unit building in North Miami Beach are behind on their fees. That makes it difficult to pay for things like elevator repairs and gardening.

Now, Fannie Mae — the biggest player in the mortgage market — wants to ensure that if it's backing a loan for a condominium, the building is in good shape. If the building is brand new, Fannie Mae wants to be certain there are enough owners to pay for maintenance and preserve the value of the property.

Sound simple?

Nothing is simple in Washington these days.

The new rules were designed to protect buyers and lenders, but they may make it harder for condo owners to sell. That could hobble the recovery of the condo market.

And in the end, critics say, the rules will mean cash-strapped associations like the Wilshire's won't be able to maintain the very buildings that Fannie Mae wants to preserve.

"I guess things can get much worse before they're going to get better," Barr said. Under the new regulations, Fannie Mae will reject any mortgage for a condo buyer if more than 15 percent of the other owners are delinquent on their association fees.

What's more, Fannie Mae will only guarantee mortgages in new or newly converted condo developments if 70 percent of the units are sold or under contract.

Critics say the rules, which went into effect this month, could force some new developments into bankruptcy because the 70-percent requirement will be hard to reach if buyers can't get a loan.

There's already more than a year's supply of condos for sale on the market. And about 93,000 new units are expected to be completed this year, a 28 percent jump from 2008, according to Reis Inc., a real estate firm based in New York.

"By setting the higher threshold they've reduced their risk of making these loans, but they've also virtually killed the potential for many projects to be successful," said developer Jeff Spear, owner of The Spear Group in Fort Lauderdale, Fla. "It's going to make it extremely difficult for this inventory to get absorbed."

The riskiest market in the country is Miami, which saw a building boom beginning in 2002. Since then, about 38,000 condo units have been built or are under construction in Miami-Dade County, with more than 22,000 of those concentrated in or near Miami, said Jack McCabe, president of McCabe Research & Consulting.

"It's not surprising that developers are talking about a death spiral," McCabe said. "There are so many units that are unsold and they are unable to pay off construction loans."

He estimated that as much as 40 percent of the 16,000 completed units in Miami remain unoccupied. More than a half-dozen condo projects in the Miami area are stalled because sales have slowed to a crawl and the credit needed to build them has disappeared, said Jennifer Drake, real estate attorney with Becker & Poliakoff.

Developers in other hot markets, such as Las Vegas, also rushed to build condos and condo-hotels but had developments stalled or canceled. Las Vegas real estate agent Sue Naumann estimated that of about 100 planned high-rise condo projects, only about 20 were completed.

The excess condo development and subsequent financial problems were fueled in part by speculators like Izad Djahanshahi, who invested in 41 units during the real estate frenzy that gripped Miami from 2002 to 2005. Now, he has eight condos in foreclosure.

He has filed for bankruptcy protection from creditors and estimates he owes about \$500,000 in back mortgage payments.

"We just bought and sold and bought and sold," said Djahanshahi (jah-han-SHAH-hee). "We kept the money in the company and we invested more and more. Suddenly, everything stopped."

As investors like Djahanshahi failed to pay mortgages, units were foreclosed upon and have remained empty, leading many condo associations to cut back on services like security, valet parking and landscaping because they can't collect enough fees.

Florida condominium ombudsman Bill Raphan could not offer specific numbers, but estimated that a "good percentage" of condominium associations have delinquencies more than 15 percent.

Attorney **Donna Berger** represents 1,000 community associations in Florida. She said delinquencies were up around 5 percent among the groups she represents, and reached 90 percent in certain "mostly investor-owned communities."

"I understand (Fannie's) need to insulate their risk, but I think further tightening the stranglehold on condo owners is not the answer," Berger said.

Fannie Mae spokeswoman Amy Bonitatibus defended the company's new guidelines, saying it wants to reduce risk for lenders and protect buyers from condo fee increases or special assessments, company spokeswoman said.

But the bottom line is condo sales will likely take another hit.

The rules are discouraging buyers like Jim Lyon, who wants to buy a new condo in Miami for about \$250,000.

"I'm leery of making the commitment now to a condo," said Lyon, 55. "The restrictions are that much tighter now."

As buyers get shut out condo prices may fall further. Fewer buyers also could mean higher association fees for the rest of the owners who may have to shell out more money to cover vacant or delinquent owners, said Robert White, managing director of KW Property Management & Consulting in Coral Gables, Fla.

"It's going to lock everybody in," White said, "including the people who are delinquent."