

HOA Management Can Impact Condo Value

April 20, 2014

Dear Dave: When we purchased our condo we used FHA financing. Now we are selling it and, apparently, it is now not eligible for FHA. What happened?

Answer: It is very important for HOA Management to keep up Certifications for Financing. With FHA, this is required every 2 years, but there may be a reason that your HOA cannot re-qualify for FHA other than it just lapsing.

The biggest issue is owner occupancy. Associations need to be vigilant about the number of rental units in the development. If the owner occupancy rate drops below 51% in a condominium project, then FHA is no longer possible when you sell it. Associations should amend By-laws to protect owners by assuring that the 51% level is not breached. Other issues that can disqualify your condo from FHA approval are the number of owner delinquencies for monthly dues, or the general health of the association finances.

Attention to detail by Association Managers and Boards of Directors can, in fact, have a serious impact on your property value. If the HOA does not keep up finance certifications for FHA and AHFC, the value of your home is diminished because it becomes more difficult to sell.

VA certification is permanent, once granted, but Conventional (Fannie Mae) financing requires re-approval for every single sale event (and Conventional requires 75% owner occupancy!) Make sure your HOA Board and Management are properly educated on this important matter.

Dear Dave: We live on a property that belongs to a Homeowners Association which was formed basically because of a community well that services the 35 or so properties in the area. There are also other covenants that regulate structure type and size, junk cars etc. Dues are \$230 per quarter.

We sold the property, only to have the transaction 'fall apart' over the Resale Certificate. Basically, we had a buyer that was new to real estate, and a Buyer's Realtor that simply handed off the confusing ream of paper to the new buyer to read. The new buyer thought they were buying into a condo association and rescinded the transaction.

How should the "Resale Certificate" be handled? I am assuming that there are some liability laws that regulate that in the State of Alaska. A call to the Association President could have answered the prospective buyer's questions. In addition, the Buyer's Realtor had not even read the document nor felt compelled to do so. In turn, of course, they were unable to answer any questions. Tell me more about the Resale Certificate.

Answer: I am sorry about what happened to you. A lot of the problems that kill a real estate transaction can be prevented by a skilful Realtor. I have personally appeared before the Real Estate Commission pleading that they raise the entry level standards for persons seeking a License to practice in the Real Estate business. It is just far too easy for people with almost no

business experience, nor prior education, to sit for a few hours of classes and then try out for an examination to become qualified to make more money than the Mayor.

From a technical standpoint, wherever a “Common Interest Community” is established by a lawfully created “Declaration”, the provisions of the Alaska Common Interest Ownership Act apply, whether it be a Condominium Complex or a locally organized Neighborhood Association. It is in the interest of every seller, when such an Association exists, to obtain and deliver to the buyer the Resale Certificate at the earliest possible moment in a transaction.

In fact, the Act does not prevent you from obtaining the Resale Certificate before your buyer comes along. Keeping in mind that the Association has 10 days allowed to produce it, you should, in my view, order it when you put the property on the market. Then you can give it to the buyer for the formal 5 day review period immediately the sales contract is agreed. This way, at least you can only lose 5 days thinking your property is sold only to have it fall apart.

If, at the time of sale, your Resale Certificate is over 2 months old, I would include that in an Addendum to your Property Disclosure Statement and recommend that the buyer contact the Association for any recent Minutes or Updates.

The fact is that buyers deserve legal protection when buying into a Common Interest Community because any problems or potential lawsuits affect every singly member of that Association. Your community water system could need extensive upgrade and the association might be planning to assess all members for a financial contribution. A homebuyer is entitled to find out about such matters and withdraw from the real estate transaction, without penalty, within a reasonable period of time after learning the facts – hence the statutory 5 day review period. The 5 days is 5 business days not including holidays.

Everyone has the right to consult an Attorney before, during, or after entering into a real estate transaction. You may be surprised to learn that, in many countries around the world, an Attorney handles the transaction once the sales agreement is signed. Culture and tradition have determined otherwise in the United States of America and, for the most part, the industry functions well.

Inexperienced dilettantes in the industry should be avoided when engaging a Realtor but, remember, all trades require a training period and that’s why the Broker of the real estate firm is ultimately responsible for every action of his agents.