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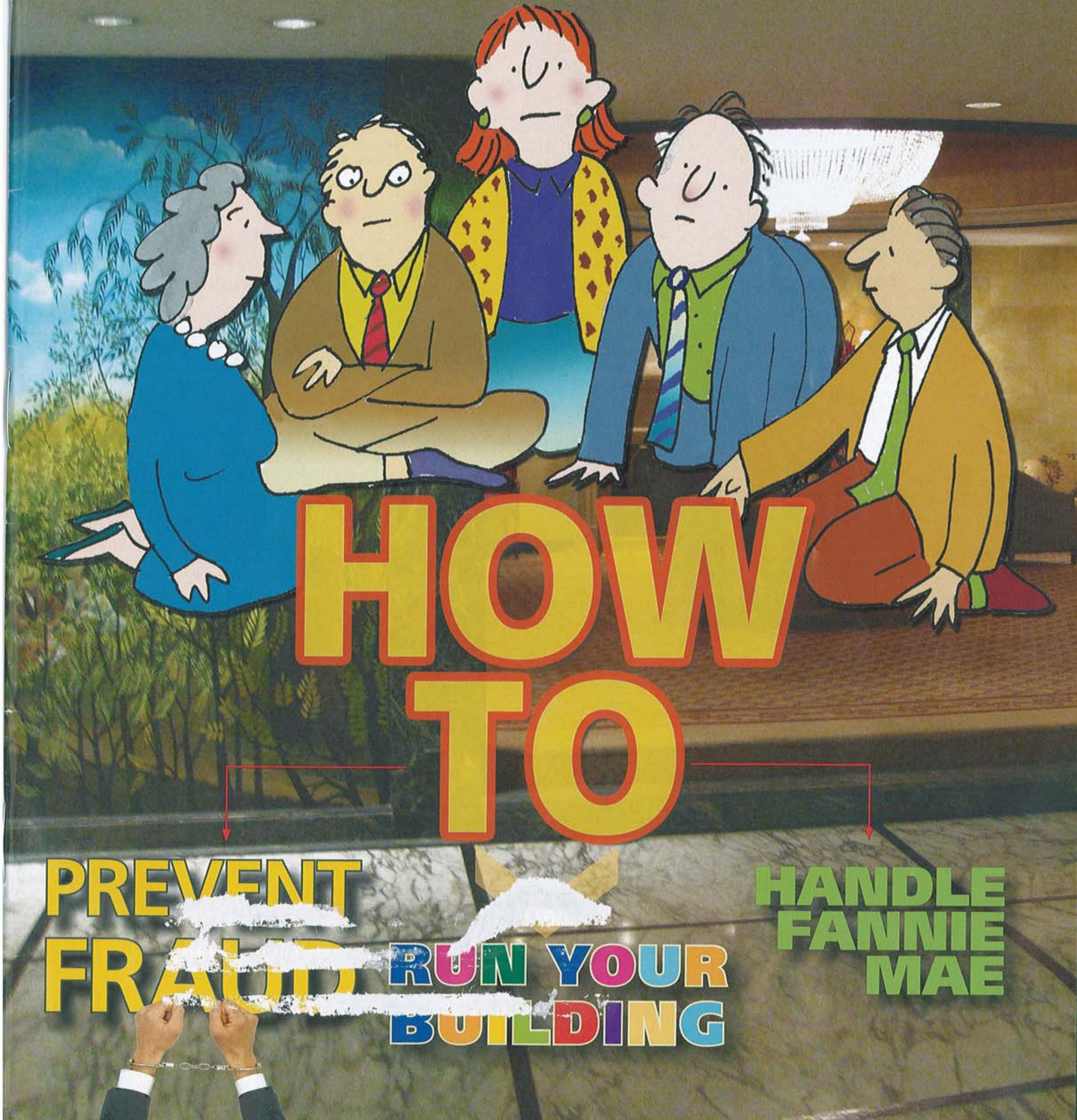

HOW TO

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Restrictions are tighter – but there are ways to succeed.

By Bill Morris

In the good old days before the credit crisis and this gorilla of a recession hit, co-op and condo boards rarely gave a second thought to the guidelines that determine if the federal government will back mortgage loans for their building. If a buyer was qualified, he could usually get a loan. If a shareholder or unit-owner was qualified, he could usually refinance the mortgage.

What a difference a financial meltdown makes.

Today, in a redrawn lending landscape, co-op and condo boards are discovering that federal mortgage guarantees, once an afterthought, are now a very big deal. In many cases, the guarantees are a prerequisite for commercial banks to make mortgage loans. Without backing by Fannie Mae, Freddie Mac, the Veterans Administration, or the Federal Housing Administration (FHA, an arm of the Department of Housing & Urban Development, or HUD), some boards are discovering, to their deep dismay, that loan money dries up and, with it, apartment sales and mortgage refinancing.

Old guidelines, long ignored, are suddenly being enforced. Other guidelines are being tightened. And loan officers in major commercial banks have become so cautious that, in the words of one frustrated loan applicant, "They want everything but a blood sample."

There are two things boards need to know in this cold new world: first, which type of federal backing is right for your building; and second, how to go about securing it.

To find answers, let's take a trip to the Inwood neighborhood at the northern tip of Manhattan.

Ever Hear of the NCA?

The board of directors at Academy Twins Condominium wanted to get rid of the sponsor, who owns 10 of the property's 89 units and had been a source of much friction and litigation over the years. The building did not have federal loan backing. That, coupled with the recession, made it impossible for the sponsor to sell his apartments. And the board wanted to get rid of the renters in the sponsor-owned units.

But with no loans there could be no sales. At a dire moment like this, who should you call? David Shargani, a real estate agent who moved into the building in 1998 and bought his apartment in 2005, had an idea. Through a broker colleague at Century 21, Shargani had heard about a company in White Plains called National Condominium Advisors that helps condos win federal loan guarantees. "I'd heard they're very good at looking at a building, looking at the area it's in, and deciding which kind of federal loan approval is right for that building," Shargani says.

He approached Noel Dent, a property manager at Veritas Management, which has managed Academy Twins since May of 2009. Dent got in touch with National Condominium Advisors, which was founded two years ago by Orest Tomaselli, who spent 17 years working for mortgage banks, and Gary Goldman, a veteran real estate lawyer. "We quarterback the entire project-approval process," says Tomaselli. He and Goldman made a presentation to Dent, who was impressed.

"I took the information back to a couple of people on the board," Dent says. "I told them I thought FHA approval would help sell the sponsor's apartments."

The Academy Twins board decided to pursue FHA approval for a couple of reasons. Apartments sell in the $200,000 to $300,000 range, which means typical buyers do not have bottomless pockets. The FHA requires a minimum downpayment of 3.5 percent of the purchase price, while Fannie Mae requires 10 to 20 percent. Also, the purchaser must have a credit score of at least 620 under the FHA, while Fannie Mae requires at least 680 (see box, p. 24). (The FHA, Fannie Mae, and Freddie Mac all have a loan maximum of $729,750. Larger loans are called "jumbo" loans.)

The idea of bringing National Condominium Advisors in became even more attractive to the board when the sponsor agreed to pick up the company's fee, which wound up being $3,750. (Fees for the project-approval service usually run between $3,000 and $5,000, according to Tomaselli, although they can run as high as $20,000 if paperwork is not in order and things like bylaws and budgets need to be rewritten.)

"Carl Borenstein [Veritas's president] and Noel Dent brought me in to speak to the Academy Twins residents last fall," Tomaselli recalls. "Frankly, it was the management company that took the initiative and told the board the property needed FHA approval. They explained that the approval would not only help with selling the sponsor's units, but would also help unit-owners refinance their apartments."

The Academy Twins application was not complex, but it hit a snag over the right of first refusal, which gives boards the power to buy an apartment if they think a seller has priced it below market value.

"In this case, we had to wait for an FHA guideline change that was scheduled to come on December 7," Tomaselli says. "In the past, the FHA said that if a development had the right of first-refusal in its bylaws, the project could not get FHA approval. They changed their mind on December 7. As long as the right of first refusal is not 'discriminatory,' they would now allow a project to be approved. That's a huge change for New York."

And it was huge for Academy Twins Condominium, which was granted project approval from the FHA shortly before Christmas. "I hope this approval will change things," says Anna Fu, who served as the board's treasurer until late 2009. "Hopefully, this will open up opportunities for unit-owners to refinance, and it will also create a bigger pool of potential buyers. It makes financial sense."

"Getting this done was not easy," adds Dent, the property manager. "They [National Condominium Advisors] took care of the forms and

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the filing – HUD wants a stack of paperwork. I don't have time to do all the running around that they do. I've got enough paperwork."

Would he use the service again? "Yes, I would use them again – for the right building," Dent says. "Academy Twins is an 89-unit building with 12 units for sale. Most of the co-ops and condos I manage don't have that high a percentage of units for sale."

Changing Times

National Condominium Advisors is a product of these straitened times. "We exist specifically because of the changes in the economy and the lending environment," says Tomaselli. "A few years ago we looked around and saw the influx of new construction condos, not only in New York but around the country. We realized the FHA was getting ready to revamp their project-approval guidelines. The only outlet was Fannie Mae."

Then the global recession hit and Fannie Mae and Freddie Mac were nearly swamped. "All of a sudden," Tomaselli continues, "Fannie Mae started enforcing some requirements and changing others – and the only place to get a project-approval was the cumbersome requirements of the FHA."

One area where the company has been particularly busy is in getting around the Fannie Mae and FHA requirement that condos must have 10 percent of their annual budget set aside in a reserve fund.

"This requirement is going to leave a lot of people in dire straits," Tomaselli says. "The normal thing would be to have a special assessment to build up the reserve fund. We argue that in some developments, a 10 percent reserve fund is overkill. The only way to prove that is to perform a study. An architectural engineer from our staff visits the building and prepares a program of the building's physical needs."

While this is one area where a board can take the lead in trying to get around federal guidelines, boards need to remember that their options are limited when it comes to dealing with Fannie Mae.

"There is no way for a board to approach Fannie Mae and enter into a business dealing that would result in approval of their building by Fannie Mae," says Patrick Connolly, senior risk manager at Fannie Mae. "They can certainly reach out to a lender to ask them to approach Fannie Mae to get their building approved."

Lenders have more options than boards. "If any given building doesn't meet all the criteria, the lender has a decision to make," Connolly says. "They can tell the board they can't do the loan, or they can reach out to Fannie Mae. If they do, everything is handled on a case-by-case basis."

Connolly cites non-eviction condo conversion plans as one area where Fannie Mae has shown flexibility. In New York City, such plans allow the sponsor to convert the property if 15 percent of the units are sold. But Fannie Mae guidelines call for a pre-sale of at least 50 percent before it will guarantee loans.

"Just recently," says Connolly, "we've issued final approval under non-eviction plans where the pre-sale was less than 50 percent. It's not something we enter into lightly. A pre-sale of 15 percent would be too low. Fannie Mae is willing to

DOLLARS AND SENSE

Requirements for loan approval by the major federal lenders:

(1) Downpayment

(as percentage of purchase price):
Fannie Mae:.... 10 to 20 percent.
FHA:................ at least 3.5 percent.

(2) Buyer's credit score

Fannie Mae: .... 680 minimum.
FHA: .... 620 minimum.

(3) Building's reserve fund (as percentage of annual operating budget):

Fannie Mae: ... 10 percent.
FHA: .... 10 percent.

(4) Seller's contribution to closing costs

(as percentage of purchase price):
Fannie Mae: ... 3 percent.
FHA: .... 6 percent.

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look at buildings where the pre-sale requirement is not met. It's a recognition by Fannie Mae that there are some unique circumstances in New York."

Patrick Niland, president of the mortgage brokerage First Funding, warns that many people equate a building's project approval with approval of individual buyers' loan applications. In fact, the two can be apples and oranges.

"What everyone wants is to have the building pre-approved so any purchaser can get a loan," Niland says. "But that's not how it works. People confuse approval of the building with approval of the borrower's credit."

Insurance Headaches

Insurance is yet another area where federal guidelines are giving some boards fits. Edward Mackoul, principal of Mackoul & Associates insurance brokerage, says that many boards are struggling to meet the Fannie Mae requirements for fidelity bonds, loss-of-business-income insurance because of a covered claim (such as a fire), and insurance to recover 100 percent of replacement costs.

But Mackoul says there has been particular trouble over Fannie Mae's requirement that a building's insurance carrier must meet strict ratings standards from one of three ratings agencies. "That has caused some problems. Some buildings have had to switch insurance carriers and they've been hit with major premium increases in order to get coverage with a new [Fannie Mae-approved] carrier."

On November 3 of last year, Fannie Mae officials met with local real estate professionals to hear their concerns. "They [Fannie Mae] are in the process of reviewing their [insurance ratings] guideline and may change it," Mackoul says. "We're waiting to hear from them. Meanwhile we're getting calls from managing agents saying buyers can't get loans and shareholders can't refinance. Fannie Mae is dictating more and more."

"That approval opens doors for a lot of people," notes Shargani, the board member at Academy Twins who hooked the building up with National Condominium Advisors. "The number one thing we have to do is eliminate the sponsor, and this FHA approval will help us eliminate him a lot quicker." **H**