

DEFINITIONS

CONDO The FNMA “Fannie Mae Selling Guide” (3/31/87) defines a “condominium” as: A real estate project in which each unit owner has title to a unit in the building, an undivided interest in the common areas of the project, and sometimes the exclusive use of certain limited common areas.

CONDOMINIUM OWNERSHIP An estate in real property consisting of an individual interest in an apartment or commercial unit and an undivided common interest in the common areas in the condo project such as the land, parking areas, elevators, stairways, exterior structure and so on. Each condominium unit is a statutory entity that may be mortgaged, taxed, sold or otherwise transferred in ownership, separately and independently of all other units in the condo project. Units are separately assessed and taxed based on the combined value of the individual living unit and the proportionate ownership of the common areas. The unit also can be separately foreclosed upon in case of default on the mortgage note or other lienable payments. In effect, the condominium permits ownership of a specific horizontal layer of airspace as opposed to the traditional view of vertical property ownership from the center of the earth to the sky. Typically, the unit, the percentage of common interest and the limited common elements are appurtenant to each other and cannot be sold or transferred separately.

Condominium ownership is popular in many urban and resort areas due to general scarcity of desirable and usable land and to tax and other advantages of fee ownership and apartment living. In addition to residential condominiums, many office and professional buildings, industrial plants, medical clinics, warehouses, recreational developments and combined apartment and office buildings use the condominium form of ownership. Each condominium owner has exclusive ownership of his or her individual unit but nevertheless must comply with the requirements of the declaration, bylaws and house rules set up for the protection and comfort of all the condominium owners.

Under individual state laws, the developer/owner of a condominium must execute and record a master deed together with a condominium declaration. When recorded, the declaration must generally be accompanied by a true copy of the bylaws, a condominium map, floor plans and elevations. Note that the establishment of a condominium is not an irrevocable step---state statutes may permit the removal of a building from condominium ownership with the consent of all or most owners and lienholders. The unit owner’s voting power is typically based on a percentage of common interest (note that in a cooperative, each owner has one equal vote regardless of the unit size).

Resale of a condominium may be subject to the right of first refusal of other owners. Generally speaking, however, resales are not as restricted as in the cooperative form of common ownership.

Condominium units tend to sell at prices below those of single-family homes. However, the life-cycle cost of a condominium (mortgage, utilities, maintenance and condominium fees) may be equal or, in some cases, greater than those of other forms of housing.

Although all types of consumers own condominiums, the dominant buyers are couples 45 to 64 who previously owned single-family residences and whose children have left home (“empty nesters”) or the elderly.

CONDOMINIUM OWNERS’ ASSOCIATION An association of the owners of condominium units. It is often in an unincorporated association form, and its main purpose is to control, regulate and maintain the common elements in the condominium. The voting power of each owner in an association is usually measured by his or her percentage of undivided interest in the condominium. Through the bylaws, the association’s board of directors is authorized to regulate and administer the affairs of the condominium, especially in regard to maintenance and repair of the common elements. The association has the authority to assess and collect sufficient money to maintain the common areas and to ensure the financial stability of the condominium. When a unit owner is in default of the monthly charges or special assessments, the association may place a lien against his or her apartment, which can be foreclosed to satisfy the debt.

The condominium owners’ association can elect to be treated as a tax-exempt organization, in which case the association will not be taxed on membership dues, fees and assessments. However, the association must meet certain income and expenditure tests referred to below.

Membership dues and assessments will not be treated as taxable income, provided that at least 60 percent of the association’s gross income comes from membership dues, fees or assessments; that at least 90 percent of its expenditures are used to acquire, manage, maintain or improve association properties; and that substantially all of the units or lots owned by members are used as residences (although they need not be owner-occupied).

The association is still taxed as a corporation on investment income and income from trade or business (for example, rental income or fees from third parties for use of the association’s facilities).

PUD A planned unit development (PUD) is a development that has *all* of the following characteristics:

X The individual unit owners own a parcel of land improved with a dwelling. This ownership is not in common with other unit owners.

X The development is administered by a homeowners association that owns and is obligated to maintain property and improvements within the development (e.g. grassbelts, recreation facilities, and parking areas) for the common use and benefit of the unit owners.

X The unit owners have an automatic nonseverable interest in the homeowners association and pay mandatory assessments.

A relatively recent concept in housing designed to produce a high density of dwellings and maximum utilization of open spaces, this efficient use of land allows greater flexibility for residential land and development. It also usually results in lower priced homes and minimum maintenance cost.

The developer plans the project and seeks local governmental approval of the proposed PUD zone. He or she then organizes a nonprofit community association to provide for the maintenance of the common areas, records a declaration of covenants and restrictions, and records a subdivision plat reserving common areas to the members of the association but *not* to the general public.

The PUD concept is really an “overlay” zoning which enables a developer to obtain a higher density (and sometimes a mixed-use) than is permitted by the underlying zoning. Because the buildings are usually clustered together, there is more green area left open for parks and recreation.

DIFFERENCES BETWEEN PUD AND CONDO Though similar in some respects, a PUD is quite different from a condominium. In a PUD, the unit is a lot, there is no direct interest in the common areas, the community association is in corporate form, and the PUD is created by covenants in the deed or master lease. In a condominium, the unit is a space of air, there is a percentage of ownership interest in the common areas, the association of owners is usually unincorporated, and the condominium is created by recording a declaration pursuant to state condominium laws. PUD’s are also used in resort housing and even shopping center projects.

TOWNHOUSE A type of dwelling unit normally having two floors, with the living area and kitchen on the base floor and the bedrooms located on the second floor; a series of individual houses having architectural unity and a common wall between each unit. Town houses, or row houses, are very popular in cluster housing, and often employ the use of party walls and shared common grounds. Town house developments are often planned unit developments (PUDs), with each owner possessing fee title to the structure and the land underlying the structure; many are organized in the condominium form of ownership. The surrounding land, including sidewalks, open spaces and recreational facilities, is normally owned in common with others. The town-house concept is a hybrid of the single-family home and the apartment, and is sometimes used in areas that have height restrictions preventing highrises.

PATIO HOME A land-conserving, small-lot housing design in which part of the home is built close to, or at, the lot line. A patio is built on the side of each home. Facing that patio, to preserve privacy, is the windowless wall of the next home.