

IMPACT OF THE NEW MORTGAGE DISCLOSURE REGULATIONS
ON COMMUNITY ASSOCIATIONS

Michael Rome, Esq.
www.hoa-attorneys.com

In response to the 2007 mortgage crisis new federal regulations issued by the Consumer Financial Protection Bureau (“CFPB”) will take effect on October 3rd, 2015. In an attempt to address past issues regarding confusing loan estimates and unqualified purchasers, mortgage lenders will be required to deliver detailed written disclosures to prospective purchasers. These will have to be provided to the consumer within three business days from completion of a loan application. The good faith estimates must include: (i) the amount and frequency of regular assessment; (ii) the amount of any special assessments due by the closing date; (iii) the amount of any delinquent assessments; and (iv) closing costs related to the association, such as estoppel certificate fees, administrative charges, transfer fees, etc.

As a result of the new law community associations will need to supply the information in a prompt manner to the mortgage company. The regulations allow for something called a “best information standard” which means the mortgage lender does not have to guarantee the accuracy of the amounts. This standard is important when considering the possible difficulty in obtaining the current figures quickly from a board of directors or from a self-managed association. On the other hand this same standard will allow mortgage lenders to acquire the information from third party sources, such as title companies, MLS listings, real estate agents, etc.

The new regulations do not prohibit a community association from charging a fee for providing the required information, the mortgage companies are prohibited from passing on the charges to the consumer. Therefore, if the association charges a high fee there will probably be much ‘gnashing of teeth’ heard from the mortgage lenders.

Summary. As of October 3rd of this year community associations will begin to receive requests from mortgage lenders for required loan estimate disclosures. These disclosures are for the purpose of qualifying a prospective purchaser and will be in addition to the typical closing letter or estoppel certificate. In fact some of the applications will never result in an actual closing. Ideally, the community association, property manager or association law firm will promptly and efficiently process requests online for a reasonable pre-paid fee. The information provided should come with a statement that it is the “best information available for purposes of the loan estimate and may not be used for the purpose of a closing.”