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Condominiums, Sunny Day and Post-Disaster

In the [November 2022 MV Supplement](#), I explained why Actual Cash Value (ACV) appraisals work best in post-disaster situations. Reaching back to the [March 2021 Supplement](#), I talked about condominiums and cooperatives. In this issue, I offer some reminders about condominiums, explain why Actual Cash Value is the only method appropriate when condo buildings need to be appraised so communities can make SI/SD determinations, and I give you my taken on the role of condo associations before and after disasters.

I've been a certified real estate appraiser in Florida for many years and I've made a lot of sunny day appraisals and many post-disaster appraisals, focusing on southwest Florida. Last year, the consequences of storm surge flooding associated with Hurricane Ian helped me realize that condominium associations need a better understanding of their role when their properties are located in special flood hazard areas.

First, Some Fundamentals About Condominiums

1. Condominium is a form of ownership, not a building type. Despite that, many of us use "condominium" when we talk about buildings that are owned by condo associations.
2. Condominium associations are corporations with elected boards of directors empowered to manage the condominium business. Typically, a condo association is created by articles of incorporation and is governed under a declaration of condominium, with rules and regulations that can be amended from time to time. Most state governments recognize condominium ownership and have governing statutes.
3. Buildings that are "owned in condominium" can have commercial units, residential units, or a combination. Condo buildings can range in size from as few as two or three units to hundreds of units.
4. It is common to find a condo complex consisting of multiple buildings of different sizes with more than one apartment floorplan type.
5. Typically, a condo unit owner owns a defined space inside a building. The condominium association owns everything outside the defined unit space, and each unit owner owns a fractional interest in the association.
6. Condo unit ad valorem tax assessments always include component values for land and other improvements. This means the adjusted tax assessment method must not be used as a proxy for market value of the building for floodplain management purposes. **This also means Actual Cash Value is the only method that is appropriate to value a building owned in condominium for SI/SD purposes.**
7. Cooperative associations are like condominiums in many ways, but the cooperative association owns the entire building. **But when it comes to determining the building value for SI/SD, like condo buildings, the only appropriate method for buildings owned by cooperative associations is Actual Cash Value.**

Some Context for My Recommendations

In many states, the natural habitat of condominiums is the coastal community, though they can be found almost anywhere. In my part of southwest Florida, condominiums and cooperative associations first appeared in the late 1950s. Much of our coastal condo development occurred before communities joined the NFIP. Consequently, we find many condo buildings and cooperative complexes with ground level units in buildings that are two stories and taller.

From Naples in Collier County, north into Lee County, the most recent storm surge flooding affected almost all older beachfront buildings. It is common to find ruined ground level electrical closets, inoperable elevators and fire alarm systems, and flooded ground level apartments. Sometimes buildings have major structural damage caused by water, wind, or a combination. This means many local building officials and floodplain administrators must grapple with determining whether those buildings have incurred substantial damage.

Sunny Day Improvements

Unless local officials apply their floodplain regulations consistently in the “good” times, neither they nor condominium and cooperative association boards will be prepared to act when disasters occur. As floodplain administrators, we can create problems when in “good” times (when we’re dealing only with improvements inside condo unit spaces) we don’t pay special attention to condominium buildings. We’re asking for trouble if we:

- Don’t recognize that the market value in the SI/SD equation must be based on the condo building as a whole, not individual units.
- Don’t require applicants for work in a condo unit to submit ACV appraisals for buildings.
- Don’t realize the legal responsibilities of condominium association boards, which should know if their buildings are in SFHAs and what that means when improvements are made or repairs are needed.
- Deal directly with unit owners and their contractors to issue permits, sometimes without the knowledge or consent of the building owner, which is the condo association.

Floodplain administrators sometimes forget that their SI/SD evaluation work is to look at buildings, not units (see Rebecca’s note about SI/SD definitions). Sometimes condo association boards forget that their responsibility is to do association’s business, even when unit owners do work in their units. Individual condominium unit owners, and their contractors, come to expect that the permitting process is without limit and beyond control of the association.

Floodplain administrators need appraisal reports to use when unit owners submit permit applications. While one unit owner making improvements in a large multi-unit building might be unlikely to trigger 50%, what about when a building has only a small number of units? When a unit owner applies for a permit, the condominium association should be responsible for ordering an ACV appraisal report and paying the appraisal fees. In most real estate markets, the shelf life of an ACV appraisal report prepared to support on-going improvements inside unit spaces can be as long as three years. Once a pattern of appraisals and periodic updates is established, a fresh appraisal is relatively quick and affordable for the licensed appraiser to prepare.

Especially in communities that enforce a cumulative substantial improvement requirement, condominium associations have an interest in monitoring unit owner permit applications and tracking accumulated costs. Association boards should understand the community’s cumulative requirement and understand what it means to bring their building into compliance when cumulative SI/SD is triggered.

Post-Disaster Responsibilities

Post-disaster, communities have a responsibility to assess damage, coordinate resources, and guide the recovery process. From where I sit watching recovery in my part of Florida, the process unfolds much easier when communities have written disaster recovery plans directed by experienced personnel. In particular, recovery plans should have a specific step to identify buildings in SFHAs that may have incurred substantial damage. Even in these times of increasingly frequent and violent storms, the interval between disasters is

usually longer than institutional staff memory, which means periodically local officials must review and update the recovery plans so they're ready for the next event.

Just like any other damaged non-conforming building in SFHAs, buildings owned in condominium are subject to substantial damage determination test. It is the responsibility of the community to assure that determinations are applied consistently and according to FEMA guidance. I recommend that disaster recovery plans include a step to distribute clear and concise information to condominium and cooperative associations to explain that they must obtain building values by the ACV appraisal method, and that they must prepare repair budgets, building by building, covering all the costs required to repair each building to its pre-damage condition, including the costs to make repairs inside damaged unit spaces. Communities should make it clear that building permit applications will be processed only with the knowledge and consent of the condo association's board.

Post-disaster, it is the condominium association board's responsibility to coordinate cleanup and remediation, make emergency repairs, order a fresh ACV appraisal for each affected building, and develop repair budgets for each building to account for:

- Association insurance claims and payments.
- Costs required to repair each building (and unit) to its pre-damage condition, which is an essential requirement of the substantial damage determination test.
- All other costs, including the additional costs of any improvements that owners might elect to have performed at the same time repairs are made.

The Bottom Line

The post-disaster environment forces condo and cooperative associations to make existential decisions at a time not of their own choosing. The more they know about what it means when their buildings are in SFHAs, the better they — and their local officials — can do what needs to be done, whether for sunny day improvements or post-disaster repairs. To accomplish an important part of that responsibility, associations must employ competent appraisers and engage their own general contractors. Some may also benefit by hiring competent floodplain management consultants.

Submit comments and suggestions for future MV Supplement topics to Rayman4454@gmail.com.