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The Going Gets Tougher

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THE MORTGAGE WARS Dr. Stephen Krieger and Dr. Nada Gligorov prevailed over a lender who didn't like the size of their prospective building's reserve fund.

THOUGH the economy appears to be stabilizing, the market for financing remains tight.

Some people are able to get mortgages without much trouble, but others find the process arduous, mystifying and prolonged. Then there are the buyers who think their financing is secure, only to see it evaporate sometime between the signing of the contract and the closing table.

"Is it a problem? Yes, it's a problem," said Dottie Herman, the president of Prudential Douglas Elliman. "When these things fall through, it's not because people are destitute — they have good incomes. It's because banks are very, very tough now."

Madeleine Dale, a broker, has seen a bill mix-up derail a deal.

Banks can be such sticklers that missing just one payment on a bill can result in a thumbs down. Change jobs and expect the microscope. To complicate matters, sometimes it is the buildings themselves, not the buyers, that fail to qualify, thanks to new or newly relevant Fannie Mae and Freddie Mac lending guidelines.

Little data exists on how many deals crumble rather than close. According to StreetEasy.com, a Web site that tracks real estate listing data, 108 contracts unraveled in December 2009 and January 2010. The site relies on contract information voluntarily reported by brokers.

Just last month, Madeleine Dale, an associate broker and senior vice president of Halstead Property, encountered a nightmare scenario at the 11th hour, just as a deal was about to close.

After her clients, a husband and wife, were approved by the co-op board, they went to schedule the closing with their lender. At this point in the process, banks double-check the borrowers' profile to make sure that factors like their credit and employment haven't changed.

What the lender found was that the wife's credit score was lower than it had been when she and her husband were initially approved for a mortgage.

"Believe it or not, they had a mix-up with their cable bill," Ms. Dale said. The buyer had tried to set up automatic billing and ended up missing some payments, pushing her credit score below a certain threshold. "The bank came back to her and said, 'What happened to your credit score?' "

She explained, but the loan was denied.

Luckily, the husband had an income and credit score that enabled him to qualify for the loan on his own, so he reapplied solo.

"They had to start from the beginning," Ms. Dale said. "But most people wouldn't be able to do that."

The deal closed last week.

But even the best-qualified buyer can be denied a loan if the building he or she wishes to buy into is deemed a risk.

Melissa Cohn, the president of Manhattan Mortgage, said, "The biggest issue that we have is that a large number of buildings in the city don't meet Fannie Mae guidelines."

Over the last two years, Fannie Mae and Freddie Mac have tightened the regulations that govern the loans they buy from lenders.

Fannie now requires that some condominiums carry more insurance, for example, and a new I.R.S. requirement keeps the agency from acquiring mortgages made in buildings where more than 20 percent of the square footage is commercial — space that is used for, say, a hotel or a doctor's office.

But many of the guidelines that New York City apartment buildings don't meet have been in place for years. Fannie and Freddie guidelines have long held, for example, that no single person or entity can own more than 10 percent of the units in an established condo or co-op building. During the boom, that didn't matter much. Investors were hungry to buy bundled residential mortgages, and banks could bypass Fannie and Freddie and sell the loans elsewhere. Now, Fannie and Freddie are by far the biggest game in town, so on conforming loans, their rules are gospel.

Andrea Mottola ran into the problem of a building cold-shouldered by banks last year, when she was trying to sell her daughter's two-bedroom apartment in a condo on West 58th Street.

"We got a buyer who was a good buyer, putting down a decent amount of money," Ms. Mottola said.

The buyer spent more than three months in contract applying to several lenders. He could not get a loan that he could afford because banks would not finance in the building.

"It was an absolute nightmare," Ms. Mottola said. "We kept doing it until it reached a point where he just said, 'Hey, we need to call it quits.' "

A month later Ms. Mottola found an all-cash buyer, but she had to lower the price by $50,000 to get a deal. Sixteen months after she had put it on the market, she finally sold the apartment for $600,000, less than its purchase price in 2005.

Karin Posvar-Picket, also a broker, says almost all deals these days are contingent on financing.

As for Ms. Mottola's frustrated buyer, he was able to get out of his contract because it was contingent not only on getting a mortgage, but also on getting a mortgage with a low rate.

Not long ago, this sort of arrangement was rare.

"I never did a mortgage contingency deal up until a year and a half ago in New York," said Karin Posvar-Picket, an associate broker and senior vice president of the Corcoran Group. "Now for every one of my deals where the buyer is getting a mortgage, they're contingent on financing."

Mortgage contingencies, which allow the buyer to get the deposit back if a mortgage can't be secured, are generally good for 30 days. These days many sellers allow extensions, because if the buyer can't get a loan, they are out of luck, too.

"They're totally at risk," Diane M. Ramirez, the president of Halstead Property. When a deal fizzles, sellers may wind up relisting the place at a lowered price. "And as we know," Ms. Ramirez added with a laugh, "coming back on the market 40 or 60 days later doesn't mean your apartment went up 20 percent like in the heyday."

For condos and co-ops that fall short of Fannie guidelines, complying can require an investment in money and time, and the boards in most buildings are eager to oblige. But sometimes there is resistance to the changes.

Boards in buildings that had never had trouble qualifying for a loan before now find themselves up against new red tape. "Suddenly we're hearing that we can't continue to do things the way we've always done them with no problem," said Frederick W. Peters, the president of Warburg Realty. "People are understandably a little baffled by that."

Adam Leitman Bailey, a real estate lawyer in New York City, said that at the beginning of the year, he saw deals stall in a large building that didn't have enough fidelity bond insurance to meet financing guidelines, and the management company was reluctant to buy more.

When one apartment didn't close, the management company refused to get more coverage, **Mr. Bailey** said. When two, then three deals soured, it still demurred. But once there was a pile-up of some half-dozen apartments, the company conceded. It bought the insurance, and deals began to close.

But even when a deal can be salvaged, it can still be a rocky ride to closing.

Last month, Nada Gligorov, a bioethicist at Mount Sinai Medical Center, and her boyfriend, Stephen Krieger, a neurologist at its Corinne Goldsmith Dickinson Center for Multiple Sclerosis, almost lost a deal on a two-bedroom apartment on the Upper East Side because the lender rejected the building at the last minute. As it was, they had been able to bid on the apartment in the first place only because another buyer's deal had fallen through.

A week and a half before Dr. Gligorov and Dr. Krieger were scheduled to close, their lender declared that the building did not have a large enough reserve fund.

"I thought the biggest challenge was for us to get cleared," Dr. Gligorov said. "We'd never bought anything before."

Their mortgage contingency required that they next try the building’s preferred lender, and they were offered a loan — at a higher rate. Now they were in a bind: pay more, or walk away and lose the down payment.

“We thought we were going to lose thousands,” Dr. Krieger said.

Their brokerage, Manhattan Mortgage, went back to the original lender. The company was able to prove that the building did have enough reserves, and got it approved. The deal closed and Dr. Gligorov and Dr. Krieger at last had the apartment they wanted.

“You worry so much about the things you can control — having enough money for the deposit and to make payments,” Dr. Krieger said. “And then to find out that that’s not enough, it’s very stressful.

“We just closed. If we were having this conversation a week ago I would have had a very different tone in my voice.”