

Certificate of Occupancy Additional Guidance

No Certificate of Occupancy

A reminder on any deal that was recently constructed or rehabbed with units added that proof of certificate of occupancy is required. Per section 8SBL.5 of the Freddie Mac *Multifamily Seller/Service Guide*, if certificates of occupancy are not available, Optigo® lender needs to provide evidence of the following:

- i. that the absence of any certificate of occupancy is not a violation of local laws, ordinances or codes, nor
- ii. will the absence of any certificate of occupancy give rise to any enforcement action affecting the property.

If a non-permitted unit is identified at the property, the borrower will be required to complete one of the following remedies after the origination of the Small Balance Loan mortgage:

- i. Obtain a certificate of occupancy for the non-permitted unit;
- ii. Obtain one of the following, confirming that the absence of a certificate of occupancy will not give rise to any enforcement action affecting the mortgaged property:
 - Zoning report
 - Written statement/certification from the applicable governmental authority
 - Opinion of legal counsel
- iii. Cease to use the non-permitted unit for residential or commercial purposes, as applicable.

For underwriting purposes, any non-permitted unit will be excluded from the Gross Potential Rent but will need to be included in the expenses (including management fee and replacement reserves). For example, if we have a property with 10 permitted units and one non-permitted unit with an Average rating in the Form 1104, the underwritten replacement reserves would be \$275/unit (\$250 x 11 units divided by 10). In certain instances, we have seen properties where a larger unit is split into two smaller units. In this case, both units will be considered non-permitted. However, in some cases Freddie Mac has allowed the inclusion of the rent from one of the converted units while excluding rent from the second converted unit (but including expenses) provided that the engineer includes the estimated cost to convert the units back to the original configuration and that estimated cost is escrowed.

Please note that the above is subject to the laws of the local jurisdictions regarding the need for certificates of occupancy, availability of certificates of occupancy and jurisdictional practice if such certificates are not available.