Lender Best Practice: Occupancy Misrepresentation

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Occupancy misrepresentation is one of the most frequent forms of fraud that we encounter at SunTrust Correspondent Lending. We ask that you be on the lookout for scenarios that are likely to have misrepresentation of occupancy & structure your loans appropriately. There are many types of occupancy misrepresentation and we have listed 3 frequently recurring scenarios below.

Second Home Scenario

- Loans were structured as a 2nd home but someone else was discovered to be occupying as a primary residence.
- The occupant on several of these loans was a family member or acquaintance.
- In many cases the occupying family member or acquaintance was the seller.
- The selling family member provided gift funds to the buyer.

This scenario is not an acceptable 2nd home transaction. A 2nd home must be available for the exclusive use, in whole, not just in part, by the borrower. The exclusive use requirement is not met by the borrower staying in the home when visiting the occupant regardless of whether the occupant is a family member. This scenario must be structured as an investment property but there can be no gift funds.

Reverse Occupancy Scenario

- Loans were structured as investment property transactions
- Rent from the subject property was used to qualify
- Borrowers on these loans moved in immediately after closing & occupied as a primary residence
- Borrowers did not qualify without the rental income

This scenario is not acceptable since the borrower was qualified with falsified rental income. There is no acceptable work around if the borrower does not qualify for the loan. These loans often go into early payment default due to an inability to make the payments based on actual income, non-falsified income.

Primary Residence Scenario

- Loans were structured as a primary residence
- Shortly after closing the property was listed for rent & leases with tenants were executed.

A primary residence is expected to be occupied within 60 days of closing & for at least 12 months after closing. A property that will not be occupied within 60 days of closing must be structured as investment property. If the borrower's current residence is superior to the subject property, the subject property is further from the borrower's place of employment or the subject property does not make sense as an alternative to their current residence you will need to have documentation to make the case for a primary residence.

Pointers on how to ensure a loan is appropriately structured:

- Question all 2nd home and investment property borrowers about their true intentions.
- 2nd home buyers may intend to use the property as a primary residence at some future date but rent in the interim. This is an investment property transaction rather than a 2nd home.
- If a relative is the seller and/or the future occupant, proceed with extreme caution. The loan should be structured based on the borrower's occupancy.
- Alternate loan types should be explored for borrowers who are "helping someone out". The alternative must comply with the product guidelines.
- Lenders are responsible for determining the appropriate loan structure. In fraud investigations, the borrower and/or the property occupant are quite candid and often quick to say whether the loan officer knew the borrower's intentions from the start.

Thank you for your business! Your SunTrust Correspondent Lending Team