

What makes a Pud a real ‘Pud’?¹

In a recent meeting of the minds we determined that our closing and funding departments have been seeing an increasing number of doc correction requirements come through in regards to PUD properties. So we posed the question- What makes a PUD a real PUD? What should we refer to as our determining factor on a potential PUD property? Our answers were mixed among a group of highly experienced mortgage professionals so we knew we had some research to do in order to come to a consensus on our answers. Here’s what we found:

The term “PUD” is the abbreviation for “Planned Unit Development.” A PUD property may be an attached or detached single family dwelling within a project or subdivision that typically involves a cluster of attached or detached homes with common shared spaces such as walkways, cul-de-sacs, walking trails, parks, playgrounds, club houses, recreation centers or other types of mixed property use.

The secondary market (HUD, GSEs, etc.) defines a "PUD" development as a development where membership in a HOA/POA is mandatory and where there is a mandatory fee paid by the property owner to that association. Contrary to popular belief, the zoning district of the property is actually irrelevant. In the context of the secondary market definition, a "PUD" could exist in any zoning district.

Although properties are often referred to as PUDs in error, the only true way to determine whether or not the property is a PUD is by reviewing the Covenants and Restrictions which will disclose mandatory membership in the Homeowners Association. In these cases, monthly or annual HOA fees may or may not be involved.

Both Fannie Mae and Freddie Mac consider property as a planned unit development (PUD) if the development that has all of the following characteristics:

1. The individual unit owners own or have a leasehold interest in a parcel of land improved with a dwelling. This ownership is not in common with other unit owners.
2. The development is administered by a homeowners’ association that owns or has a leasehold interest in and is obligated to maintain property and improvements within the development (i.e. greenbelts, recreation facilities, and parking areas) for the common use and benefit of the unit owners.

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Reference:

<http://www.mortgage-underwriters.org/mortgage-underwriting-news/2010/08/13/what-makes-pud-real-pud>

3. The unit owners have an automatic, non-severable interest in the homeowners association and pay mandatory dues or assessments.
4. Zoning itself is not a basis for classifying a project or subdivision as a PUD.

The following documents should be reviewed thoroughly as indicated in order to make a final determination of whether or not the subject property meets the definition required of a PUD:

- The Purchase/Sales Contract and Addendums

Watch for mention of PUD, Planned Unit Development, Homeowners Association, HOA dues, subdivision covenants, requirements, and restrictions within the contract and seller's disclosure. If any of these items are mentioned, it will be important for you to clarify up front whether or not the property is a true PUD by verifying whether or not the association is mandatory or voluntary. Remember, the property is only a true PUD if the HOA is mandatory.

- The Appraisal for the Subject Property

Watch for the PUD box to be checked atop the first grid page of the appraisal. In addition, if HOA dues are listed, review the appraisal for commentary on whether or not the HOA dues are voluntary or mandatory. There may be circumstances where it is necessary to go back to the appraiser and ask him/her to explain how he/she determined that the property is a PUD. We should never rely solely on the appraisal as the sole source of making our determination as to whether or not the property is a true PUD. Appraisers often make assumptions on whether or not the property is a true PUD without reviewing the project or subdivision documents.

In most circumstances, the PUD box will be checked atop the first grid page but the PUD data section itself in the body of the appraisal only requires completion if the developer/builder is in control of the HOA and the property is an attached dwelling unit. The PUD data section should never be completed if the subject property is simply a detached single family home located in a subdivision with a mandatory homeowners association.

- The Title Commitment

Review the exceptions within the title commitment for mention of covenants, declarations, restrictions and in particular, for mention of homeowners association. If you have not already been able to determine whether or not the property is a true PUD at the point when title arrives, you may need to request that the title company obtain and provide a copy of the subdivision's documents. You may need to read through and review the documents in order to verify whether a mandatory association is part of the property's subdivision.

- The Covenants, Declarations, Restrictions

A review of these documents, if necessary, should clearly dictate that membership in the association is mandatory and non-severable. The documents should also address common areas and association areas of responsibility.

So why is it so important to make sure a PUD is really a PUD?

1. Data Integrity within the Loan File.

All file documentation must match in regards to property type. This includes the 1003, transmittal, automated underwriting findings, and the appraisal.

2. Underwriting of the Loan File.

The property type should be clearly determined before the file is submitted to underwriting so that the underwriter can underwrite the property correctly. The lender may have various requirements and restrictions in regards to attached PUD properties, in particular. The underwriter also needs to condition for a PUD rider at the time of closing when underwriting a PUD property.

3. Closing Documents for Settlement. Closing documents must reflect the property type correctly as a PUD and must include a PUD rider.