ISSUE #1

Section SILVIA DAVIS PITKIN COUNTY CO - Sample Provision Excerpt...

SILVIA DAVIS PITKIN COUNTY CO Page: 6 of 40 03/15/2002 10:28A R 200.00 D 0.00 Section 6. RIGHT OF FIRST REFUSAL: All Members have granted a right of first refusal to the Association pursuant to the terms of the Installment Land Contract. That right of first refiisal is incorporated herein by this reference.

MARKUP #1 ->

MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK

BOARD & COUNSEL REVIEW

Sec. SILVIA DAVIS PITKIN COUNTY CO (p. 1): Right of First Refusal (ROFR) or prior sale/lease approval restraint in favor of the Association or Members omits mandatory exemptions for first-mortgagee foreclosure, deeds in lieu of foreclosure, and agency-insured (FHA/VA/FNMA/FHLMC) transfers.

Statutory / Legal Reference: Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, & 24 C.F.R. § 203.43b (FHA / Agency Lending Guidelines)

Statutory Comparison: Under Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, and 24 C.F.R. §§ 203.41 / 203.43b (HUD/FHA), any Right of First Refusal (ROFR) or prior sale/lease approval restriction in the governing documents impairs mortgage warrantability unless it expressly exempts first-mortgagee foreclosure, deeds in lieu of foreclosure, and subsequent conveyances by an institutional mortgagee or federal agency.

CURRENT WORDING IN DOCUMENT:

SILVIA DAVIS PITKIN COUNTY CO Page: 6 of 40 03/15/2002 10:28A R 200.00 D 0.00 Section 6. RIGHT OF FIRST REFUSAL: All Members have granted a right of first refusal to the Association pursuant to the terms of the Installment Land Contract. That right of first refiisal is incorporated herein by this reference.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding any contrary provision in this section, this covenant shall be administered and enforced strictly in accordance with Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, & 24 C.F.R. § 203.43b (FHA / Agency Lending Guidelines). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, & 24 C.F.R. § 203.43b (FHA / Agency Lending Guidelines).