

Section 2 - Sample Provision Excerpt (Public Preview)

The By-laws grant to the Condominium Board the Right of First Refusal with respect to any rental or lease of a unit. Prior to a move in of any prospective tenant, commencing with the date of the lease's submission to management, the Condominium Board is granted up to ten (10) business days to review and act upon such lease .

ISSUE #1



MARKUP #1 ->



MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK

BOARD & COUNSEL REVIEW

Sec. 2 (p. 1): Right of First Refusal (ROFR) clause lacks mandatory exemptions for foreclosure, deeds in lieu of foreclosure, and FHA/GSE-insured mortgages.

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 federal HUD/FHA regulations (24 C.F.R. §§ 203.41, 203.43b), VA regulations (38 C.F.R. § 36.4354), and Fannie Mae / Freddie Mac project eligibility standards, any Right of First Refusal in the governing documents renders the entire community non-warrantable for federal and conventional secondary-market mortgages unless it expressly exempts foreclosures, deeds-in-lieu of foreclosure, and...

CURRENT WORDING IN DOCUMENT:

The By-laws grant to the Condominium Board the Right of First Refusal with respect to any rental or lease of a unit. Prior to a move in of any prospective tenant, commencing with the date of the lease's submission to management, the Condominium Board is granted up to ten (10) business days to review and act upon such lease .

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Any Right of First Refusal reserved herein shall not apply to or impair the rights of any institutional First Mortgagee, nor shall it apply to any transfer or conveyance by foreclosure, deed in lieu of foreclosure, or subsequent sale by a First Mortgagee, Fannie Mae, Freddie Mac, FHA/HUD, or VA, in compliance with 24 C.F.R. §§ 203.41, 203.43b, 38 C.F.R.