



Section 3.14.3 - Sample Provision Excerpt (Public Preview)

Right of First Refusal. To the extent that the Declaration now or hereafter shall contain any provision granting the Board or the Association, as the case may be, the right of first refusal or other right to purchase any Unit (a "ROFR"), then the Board or the Association shall not exercise such ROFR against any Unit that is a Restricted Resale Unit, unless...

ISSUE #1



MARKUP #1 ->

MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK

BOARD & COUNSEL REVIEW

Sec. 3.14.3 (p. 21): 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:

Right of First Refusal. To the extent that the Declaration now or hereafter shall contain any provision granting the Board or the Association, as the case may be, the right of first refusal or other right to purchase any Unit (a "ROFR"), then the Board or the Association shall not exercise such ROFR against any Unit that is a Restricted Resale Unit, unless...

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.