Section 26 - Sample Provision Excerpt (Public Preview)

RI GHT OF F IRST REFUS AL B Y OW NERS. In the event an y ow ner of a co ndomin ium other than the Declarant shall wish to sell, lease, or rent a condominium unit and shall received a bona fide offer therefore from a prospective purchaser, lessee or tenant, the remaining unit owners shall be given written notice thereof together with an executed or machine...

ISSUE #1

MARKUP #1 ->

MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK
BOARD & COUNSEL REVIEW

Sec. 26 (p. 10): 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:
RI GHT OF F IRST REFUS AL B Y OW NERS. In the event an y ow ner of a co ndomin ium other than the Declarant shall wish to sell, lease, or rent a condominium unit and shall received a bona fide offer therefore from a prospective purchaser, lessee or tenant, the remaining unit owners shall be given written notice thereof together with an executed or machine...

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.