

**SETTING THE STAGE FOR A COHESIVE COMMUNITY:  
BEST PRACTICES FOR WELCOMING NEW OWNERS / RENTERS**

**ACTHA Educational Conference and Trade Show**  
Oakbrook Terrace, Illinois  
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**1. RIGHT OF FIRST REFUSAL**

- A. What it is
1. Allows association to review proposed unit sale transaction and to purchase unit on same terms as contained in sale contract
  2. Also may apply to lease, gift or testamentary transactions
- B. How it works
1. Governing documents must provide for right in order for it to exist
  2. Unit owner tenders notice of sale contract to association
  3. Board has specific time period to exercise option
  4. At least two-thirds of unit owners must approve sale per Illinois Condominium Property Act Subsection 18(b)(13)(iii)
- C. What it is not
1. Not a screening mechanism
  2. Right can only be used for purposes of purchase of unit, rather than for setting membership qualifications

A. Required upon seller's request per Illinois Condominium Property Act Section 22.1 (if a condominium) and Subsection 18.5(g) (if a master

**IV. PRE-SALE DISCLOSURES**

- F. Vehicle information
- E. Pet information
- D. Insurance information
- C. Mortgage information (unit owner required to provide per Illinois Condominium Property Act Subsection 22.1(c))
- B. Names of occupants
- A. Contact information for owner

**III. CENSUS OF OWNERS**

- B. Pre-closing versus post-closing interviews
- 3. Overly intrusive questions can increase risk of legal exposure
- 2. Orientation as to association policies and procedures
- 1. Identification of occupants
- A. Generally permissible, if used for limited purposes

**II. PURCHASER INTERVIEWS / ORIENTATION PROGRAMS**

- D. Legal authority/standards
- 1. Not an unreasonable restraint on transfer per Illinois Condominium Property Act Section 20
- 2. Exercise of right must be rationally related to the protection, preservation or proper operation of property and to the purposes of the association as set forth in the governing documents
- 3. Right must be exercised in a fair and nondiscriminatory manner
- 4. Under Illinois Condominium Property Act Section 22.2, cannot be exercised on the basis that the purchase is being financed by an FHA mortgage

association); if the property is subject to the Illinois Common Interest Community Association Act, required under Subsection 1-35(d) of that statute

B. What must be provided to seller for buyer's review

1. Copy of declaration, bylaws, other instruments and rules and regulations

2. Statement of any liens, including statement of account for unit setting forth amount of unpaid assessments and other charges

3. Statement of any capital expenditures anticipated by the association within current or succeeding two fiscal years

4. Statement of status and amount of reserves and any portion thereof earmarked for any specific project

5. Copy of statement of financial condition of association for last fiscal year for which available

6. Statement of the status of any pending suits or judgments in which association is a party

7. Statement setting forth what insurance coverage is provided for all unit owners by the association

8. For condominiums and master associations, statement that any improvements or alterations made to unit (or limited common elements/common areas assigned thereto) by prior unit owner are in good faith believed to be in compliance with the declaration/condominium instruments

9. For condominiums, identity and mailing address of principal officer of association or other officer or agent specifically designated to receive notices

C. Procedural aspects of disclosure requirements

## V. HANDLING UNEXPECTED SITUATIONS

A. Transfer of ownership without notice to association

B. New occupants without notice to association

C. Purchaser unaware of covenants, rules or existence of association

