Fannie Mae®

Multifamily Selling and Servicing Guide

Effective as of October 26, 2026

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Section 110 Shared Use Properties

110.01 Eligibility

☑ Requirements

This section does not apply to

- Condominium Properties, and
- Cooperative Properties.

Shared Use Property Delivery Eligibility for Essential Elements Not Located on the Property	
Topic	A Shared Use Property Mortgage Loan is eligible for Delivery if...
Documents	you determine the Shared Use Documents do not explicitly prohibit the Essential Elements from being rebuilt or repaired after any casualty or condemnation.
Property	the Property benefits from Essential Elements per Shared Use Documents that: • are perpetual; • inure to the benefit of future Property owners; • are recorded in the land records; and • if applicable, are insured as beneficial easements under the lenders title policy.
Split Ownership of Units and Essential Elements	when the Borrower owns all units subject to the Shared Use Documents, and an Affiliate of the Borrower or Key Principal directly or indirectly owns the Essential Elements that benefit only the Property, such Affiliate joins the: • Loan Documents as a joint and several Borrower; or • Security Instrument using the Modification to Security Instrument (Joinder and Consent (Affiliate Owned Common Elements)) (Form 6324).

Shared Use Property Delivery Eligibility for All Essential Elements	
Topic	A Shared Use Property Mortgage Loan is eligible for Delivery if...
Financial	all: • Property and Essential Elements expenses and charges payable per the Shared Use Documents are current; • assessments and payments payable per the Shared Use Documents are current; and • to the extent permitted by law, future assessments owed by the Borrower and associated liens, if any, are subordinate to the Mortgage Loan.
Borrower Status	the Borrower: • has no outstanding community violations; and • is not involved in a community dispute that may - result in litigation, or - materially adversely impact the Property.

110.02 Documents

110.02A Loan Documents

☑ Requirements

You must:

- ensure the Borrower executes the Modification to Multifamily Loan and Security Agreement Shared Use of Essential Elements (Form 6276); and
- if appropriate per the conditions described in the Estoppel Certificate attached to Form 6276, use reasonable efforts to obtain from the association or other appropriate party:
  - the Estoppel Certificate attached to Form 6276; or
  - other form providing similar representations.

110.02B Shared Use Documents

☑ Requirements

You must:

- evaluate the Shared Use Documents;
- document your evaluation in the Transaction Approval Memo; and
- obtain:
  - an ALTA title policy per Part II, Chapter 3: Legal Compliance, Section 304: Title Insurance; and
  - ALTA Endorsements (i.e., 5-06, 28-06, and 9-06) if available in the Propertys jurisdiction.

Guidance

Shared Use Document Evaluation	
Topic	You should review the Shared Use Documents to evaluate...
Ownership and Control	• if the Borrower owns all Improvements and the underlying land; • if Essential Elements not located on the Property exist, and if ownership is: - directly or indirectly by an Affiliate of the Borrower or Key Principal; - by a separate association or governing body; - by another community owner or an adjacent property owner; or - shared by the community owners; and • how association and Essential Elements decisions are made by any - developer, - declarant, - association, - community owner, or - other governing body.

Shared Use Document Evaluation	
Topic	You should review the Shared Use Documents to evaluate...
Responsibilities and Enforcement	how an association or governing body: • collects fees and assessments; • maintains Essential Elements; • obtains insurance; • mediates disputes; and • enforces covenants, including - levying fines or interest, or - pursuing liens or foreclosure.
Fees	the assessment fee structure, including • escalation provisions, • special assessments, and • if assessments should be escrowed.
Budget	the associations current • annual budget, • income/expense statements, and • reserve accounts.
Mandates	how the association dictates: • operations; • physical appearance; • insurance claim proceeds; • other restrictions, including limitations or modifications for using the Essential Elements; and • if the cost and maintenance of the Essential Elements located on the Property are not overly burdensome.

Shared Use Document Evaluation	
Topic	You should review the Shared Use Documents to evaluate...
Insurance	the associations coverage for: • property, including if the Essential Elements not located on the Property must be rebuilt or repaired after any casualty or condemnation; • liability; and • directors and officers.

Glossary

A

Affiliate	When referring to an affiliate of a Lender, any other Person or entity that Controls, is Controlled by, or is under common Control with, the Lender. When referring to an affiliate of a Borrower or Key Principal: • any Person that owns any direct ownership interest in Borrower or Key Principal; • any Person that indirectly owns, with the power to vote, 20% or more of the ownership interests in Borrower or Key Principal; • any Person Controlled by, under common Control with, or which Controls, Borrower or Key Principal; • any entity in which Borrower or Key Principal directly or indirectly owns, with the power to vote, 20% or more of the ownership interests in such entity; or • any other individual that is related (to the third degree of consanguinity) by blood or marriage to Borrower or Key Principal. **Synonyms** • Affiliates • Affiliate's
ALTA	American Land Title Association

B

Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's

C



Condominium	Statutorily established Property ownership regime where Condominium Documents designate: • individual units for separate ownership; and • common areas for shared use and joint ownership by the unit owners.
Control	Possessing, directly or indirectly, the power to direct or cause the management and operations of an entity (e.g., through the ownership of voting securities or other ownership interests, or by contract). **Synonyms** • Controlling • Controlled • Controls
Cooperative Property	Multifamily residential property owned by a Cooperative Organization. **Synonyms** • Co-op • Cooperative

D

Delivery	Submission of all correct, accurate, and certifiable documents, data, and information with all applicable documents properly completed, executed, and recorded as needed, and any deficiencies resolved to Fannie Maes satisfaction. **Synonyms** • Deliver • Delivered • Deliveries

E

Essential Elements	A Shared Use Propertys amenities, common areas or infrastructure: • impacting or essential to the: - operation, - use, - value and marketability, - leasing, - refinancing, and/or - zoning or legal compliance; and • examples of Essential Elements may include: - parking, - roadways, - utility easements, and - amenities such as ▪ laundry facilities, ▪ clubhouses, ▪ pools, ▪ playgrounds, ▪ tennis courts, ▪ fitness clubs, and ▪ recreational facilities.

G

Guide	Multifamily Selling and Servicing Guide controlling all Lender and Servicer requirements unless a Lender Contract specifies otherwise. **Synonyms** • DUS Guide

I

Improvements	Buildings, structures, improvements, and alterations, including the multifamily housing dwellings, now or hereafter constructed or placed on the Property, including all fixtures (as defined in the UCC). **Synonyms** • Improvements'

K

Key Principal	Person who • controls and/or manages the Borrower or the Property, • is critical to the successful operation and management of the Borrower and the Property, and/or • may be required to provide a Guaranty. **Synonyms** • Key Principals • Key Principal's

L

Lender	Person Fannie Mae approved to sell or service Mortgage Loans. **Synonyms** • Lenders • Lender's
Lien	Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind. **Synonyms** • Liens
Loan Documents	All Fannie Mae-approved documents evidencing, securing, or guaranteeing the Mortgage Loan. **Synonyms** • Loan Document • Mortgage Loan Document • Mortgage Loan Documents

M

Mortgage Loan	Mortgage debt obligation evidenced, or when made will be evidenced, by • the Loan Documents, or • a mortgage debt obligation with a Fannie Mae credit enhancement. **Synonyms** • Mortgage Loans • Mortgage Loan's

P

Principal	Person who owns or controls, in the aggregate, directly or indirectly (together with that Person's Immediate Family Members, if an individual), specified interests in the Borrower per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 303: Key Principals, Principals, and Guarantors. **Synonyms** • Principals
Property	Multifamily residential real estate securing the Mortgage Loan, including the • fee simple or Leasehold interest, • Improvements, and • personal property (per the Uniform Commercial Code). **Synonyms** • Properties • Property's

S

Security	MBS, PFP MBS, or REMIC. **Synonyms** • Securities

Security Instrument	Instrument creating a lien or encumbrance on 1 or more Properties and securing the Loan Document obligations. **Synonyms** • Security Instruments • Security Instrument's
Shared Use Documents	Agreements benefiting and/or burdening a Shared Use Property, such as: • reciprocal easement agreements (REA); • declaration of covenants; • conditions and restrictions (CCR); • development agreements; • shared use agreements; • joint ownership agreement or similar agreements governing homeowners associations (HOAs); • planned unit developments (PUDs); or • other common interest arrangements or planned developments.
Shared Use Property	Property subject to Shared Use Documents: • benefiting the Property by granting the right to use Essential Elements on common areas created by, or other properties subject to, the Shared Use Documents, and/or • burdening the Property by: - subjecting it to: ▪ property-use or other restrictive covenants; ▪ fees or assessments; or ▪ maintenance obligations; or - allowing other parties subject to the Shared Use Documents the right to use the Essential Elements located on the Property.