masuda funai

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Condominium Deconversion Legal Issues

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By: Keith W. Groebe

Practices: Real Estate

Low supplies and historically high prices of single-family residences for sale have resulted in staggering increases in rent for, and shortages of, multifamily units throughout the U.S. These conditions have generated extraordinary demand for more multifamily rental units. In light of construction labor and material shortages and rapidly increasing costs, along with extended completion delivery timelines, developers have creatively turned to condominium deconversions to help meet multifamily rental demand. While deconversions have been somewhat effective to address multifamily rental demand, they are not without issues for the developer/deconverter and risks for the present condo owners.

Generally, deconversions are enabled and regulated by state statutes and local ordinances, which permit super majorities (typically 75% and higher) of the condominium ownership to vote for a bulk sale of all of the condominium units to a developer/deconverter at agreed prices. It is in the legal process of the approval of the deconversion that care must be taken by existing condo owners, the developer/deconverter and the condominium board.

Condo owners opposing the bulk sale must submit a written objection to the sale within 20 days of the approval of the sale. Upon doing so, the opposing owners will be entitled to be paid the fair market value of their condo units, as well as reasonable relocation costs. Procedures to establish fair market values are provided in the enabling statutes.

As to the deconverter and the condo board that negotiated the terms of the bulk sale, recent case law has held the board to be under a strict fiduciary duty to all of the condo owners. Consequently, the board must avoid any self-dealing, lack of full disclosure or candor or conspiratorial conduct with the deconverter, and act with good faith and loyalty to all condo owners.