

MULTIFAMILY HOUSING



Consider tenants' rights before condo conversions

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You own, or have just purchased, a rental building and have decided to convert the building to a condominium ownership. Given the current interest rate environment and the apparent unquenchable appetite for Florida condominium units, you are intending to immediately commence a marketing campaign.

You should be aware, however, that the Florida condominium conversion law, the Roth Act, will not permit you to advertise condominiums for sale, take reservation deposits or offer units to your existing tenants until you first file a notice of intended conversion with the Division of Florida Land Sales, Condominiums and Mobile Homes and provide each tenant with a copy of this notice.

GUEST COLUMN

The contents of a conversion notice are set forth almost verbatim in the Roth Act. Notwithstanding the existence of specific statutory language, you cannot deliver a conversion notice to your tenants until it has been filed with, and approved by, the division. The division has up to 35 days to review your conversion notice.

Your advertising campaign may be delayed for 40 days or more, allowing for time to prepare the conversion notice, have it approved by the division and distribute it to existing tenants. But you don't have to twiddle your thumbs during this time.



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The Roth Act requires, in addition to the typical condominium documents for new construction, a conversion inspection report and a pest inspection report. The pest inspection report can be accomplished in several days, but the conversion inspection report, typically prepared by an architect or engineer, takes at least four to six weeks. In addition, you can order a condominium survey, another long lead time item. Your attorneys can also utilize this time to commence preparation of the condominium documents.

Once you have distributed the accepted conversion notice to all your tenants, you can commence your marketing campaign. But don't forget about your existing tenants. The Roth Act gives tenants in occupancy several rights. First, they have

the right to purchase their apartment on the terms and price offered to others for a period of 45 days following receipt of all of the condominium documents. If you drop your prices, this will reinstate their purchase right if they are still in occupancy.

You may also be faced with lease extensions or terminations. Any tenant in occupancy — for at least 180 days prior to receipt of the conversion notice — can extend his or her tenancy without any rental increase for up to 360 days in Miami-Dade and Broward counties, or 270 days elsewhere in the state. Tenants in occupancy less than 180 days can extend for up to 270 days in Miami-Dade or Broward counties, or 180 days elsewhere. In addition, any tenant with a lease expiring in less than 180 days has a right to cancel his or her lease upon 30 days' notice.

Your attorney, in preparing

the condominium documents, will ask you to make an election between furnishing purchasers of units with warranties covering the major building components or providing a reserve account for each of such components to be funded out of the proceeds of each closing. Your decision to provide warranties or reserves may be based on many different factors and may vary from one property to another.

Some examples of recent high-profile condominium conversions in Miami Beach include The Waverly, with 399 units, and the soon to be converted The Floridian with 344 units. In addition, there's the former Victor Posner office building renamed The Collins, with 239 units.

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