



MEMORANDUM

TO: REF Attorneys, Paralegals & Law Students

DATE: 8/9/91

FROM: Mary Sabatini DiStephan *MSD*

RE: Non-Eviction and Vacant Building Plan Special Risk

In the current atmosphere of tight financing policies by banks, and plans becoming effective with the bare minimum of purchasers who can count, the attached disclosure to be included in the special risk section of plans and also in amendments would seem appropriate. Please include the failure to address this important issue as one of your plan or amendment deficiencies. The inclusion of this language will hopefully diffuse the volatility of conversions at effectiveness.

Thanks to Steve Gaines for proposing this language.

MSD:sg
Attachment

Special Risk

This is a non-eviction plan. Pursuant to existing law and regulation the sponsor may declare the plan effective by selling a minimum of fifteen percent of the apartments in the building. Even if the plan is declared effective with a minimum number of sales, it is possible that the sponsor may be able to convert the building with fewer than the minimum number of sales, if purchasers counted towards effectiveness do not ultimately purchase an apartment.

Purchasers should note that in the current real estate market, banks and other lenders are imposing various restrictions on loans. Such restrictions include requiring that a certain percentage (such as 35% or 50%) of the apartments in a building be sold before the lender will consider making a loan. Thus it may be possible for a purchaser to experience difficulty obtaining a loan in a building where the percentage of units purchased is lower than a lender's particular sales minimum.

Even once a building undergoes conversion, lenders may still impose minimum sales requirements before granting a loan. It then may be difficult for a purchaser to resell an apartment if prospective buyers are unable to obtain a loan due to such minimum sales requirements.

Many banks and other lenders have also imposed minimum sales requirements on granting new mortgages or refinancing old mortgages placed upon buildings. Therefore if the mortgage on a building matures or refinancing is desired, it may be difficult and/or more costly to obtain such new financing where a lender's minimum sales requirement is not met. This may lead to increases in maintenance or the imposition of an assessment on each owner.

SG:ac

6/20/91