

has recognized the necessity of providing the consumer with increasing protection in this rather new area of real estate transactions. This and other new laws will serve to promote the development of condominium housing in New Jersey by expanding the rights of individual unit owners, and by restricting potential abuses by developers.

—*Alicia Bottari*

REAL PROPERTY—CONDOMINIUMS—RIGHTS AND RESPONSIBILITIES OF
UNIT OWNERS—VOTING—GOVERNING BOARDS—N.J. STAT. ANN.
§§ 46:8B-3, -12.1, and -12.2 (West 1980)

The amendments and supplement to the Condominium Act of 1970, N.J. STAT. ANN. §§ 46:8B-3, 46:8B-12.1 and 46:8B-12.2, modify the relationship between the developer of a condominium building and the individual unit owners. The newly created provisions expand the rights and responsibilities of unit owners by increasing their participation in the general management of the building as a whole.

A "developer" is defined as a person who either creates a condominium, or leases or sells (or offers to lease or sell) a condominium, or its individual units. These actions must be in the developer's ordinary course of business. An owner or lessee of a unit who has acquired the unit for his own occupancy does not qualify as a developer. § 46:8B-3(j).

Section 46:8B-12.1 specifies the voting rights of the unit owners, vis-a-vis the developer, based on a pro rata ownership of the entire condominium building. When at least 25% of the units are owned by individuals other than the developer, those individuals are entitled to elect at least "25% of the members of the governing board or other form of administration of the association." When half of the units have been sold to private owners, such owners may elect at least 40% of the governing body. Upon conveyance of 75% of the units, the individual owners are entitled to elect the entire governing body. This increased power on the part of the owners is further protected by the stipulation that if, at any point in the conveyance process, the developer refuses to sell his remaining units, the unit owners will automatically be granted the power to elect all the members.

The developer is not left without his own safeguards. As long as he holds at least one unit for sale in the ordinary course of business, he reserves the right to elect at least one member of the governing board.

Subsequent provisions of this amendment specify the process by which elections must take place.

Provided the developer holds at least one unit for sale, § 46:8B-12.1(c) grants him further protections. He may not be assessed as an owner for capital improvements, nor may the association take any action which would impede the eventual sale of his units.

When the individual unit owners have elected a majority of the members of the governing body of the association, the developer must relinquish his control of the association, and within 60 days, deliver the following, *inter alia*, to the association: a copy of the master deed and articles of incorporation; the by-laws, books and records of the association; an accounting of all association funds; any insurance policies; the certificates of occupancy; all warranties still in effect; a list of unit owners; any leases of the common elements; all employment, management, maintenance and service contracts, as well as any other contract to which the association is a party. § 46:8B-12.1(d).

It is further stipulated that until the unit owners have elected at least 75% of the members of the governing body, no contract made on behalf of the association may be entered into for more than two years. § 46:8B-12.2.

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TAXATION—PROCEDURE FOR APPEAL OF ERRORS IN PROPERTY TAX ASSESSMENT—Pub. L. 1979, ch. 114, § 8, AN ACT TO AMEND N.J. STAT. ANN. § 54:2-41 (West 1960)

Under current New Jersey law, if a property owner discovers an error in a tax assessment, he must apply to the Division of Tax Appeals for a correction. The procedure requires the consent of the property owner's local governing body. The consent is then embodied in a resolution setting forth the nature of the error and what is to be corrected. This resolution is accompanied by affidavits signed by both the property owner and the tax assessor verifying the facts concerning the error set forth in the resolution. The Division of Tax Appeals may then either grant or deny the application.

The above-cited amendment makes certain changes in this procedure. These changes are intended to permit a timely correction of administrative errors, avoiding the need for a formal appeal to be processed. The substance of the Act is as follows:

- 1) An application is to be filed either during the present tax year or within the following three tax years;
- 2) Municipalities and County Tax Boards may also apply, not just a property owner;