



nerej

Saul Feldman - Affordable Housing

June 02, 2011 - Front Section

Forty years ago, beginning with Georgetown Houses in Hyde Park, I was representing developers who built affordable housing under 40 year mortgage loans that kept rents low for 40 years. These were HUD and MHFA programs. Today, these apartments are reverting to market rents. The problem of course is the displacement of low income, elderly and disabled tenants who are not able to afford market rents.

There are only innocents in these situations. The developers have lived up to their 40 year obligations. They have every right to raise rents. The tenants do not have the resources to pay market rents and do not want to move from apartments and neighborhoods that have been home often for many decades.

The 40 year mortgages were non-recourse with very low interest rates - sometimes as low as 1%. In return, tenants with low and moderate income could live in these apartments.

Tenants today can obtain enhanced vouchers which are designed to allow them to remain in their apartments or move elsewhere using the vouchers, but these vouchers may not be enough to keep them in their apartments. Twenty year Section 8 agreements are better than vouchers but some owners will not agree to such agreements. The tenants are claiming that loss of their rent subsidies is discriminatory - harming low-income, the elderly and the disabled, as well as families of color and families with children. I do not believe that these arguments will prevail given the clear language which says that, after 40 years, the property reverts to market rents.

The solution is the same as it was 40 years ago. The government must encourage developers to build affordable for rent and for sale housing.

Saul Feldman is a real estate attorney with Feldman & Feldman, P.C., Boston

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540