

Single tier condominiums

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my opinion, there is reason to use a two tier condominium structure (a condominium within a condominium). However, there are also reasons to use a single tier condominium structure - using just one condominium rather than two condominiums.

A two tier condominium differs from the more traditional single tier condominium.

There are drawbacks to the two tier, condominium within a condominium structure. For example, lenders on the units in the secondary residential condominium will insist on reviewing the documents and the financials for the primary condominium. It may be true that a two tier structure can make it easier to obtain the approval of Fannie Mae, Freddie Mac and the FHA. However, in a small condominium which has, for example, two commercial units and four residential units, it may be better just to obtain a portfolio lender for the "non-conforming" four residential units.

The separation between the commercial and the residential units can be achieved by a single master deed and a single condominium trust with: (1) a sub-board for the residential units and another sub-board for the commercial units; and (2) limited common areas for the residential units and limited common areas for the commercial units. In a single tier structure, the master board of trustees maintains only those common areas which are shared by all of the units in the building.

In any event, attorneys and their developer clients need to weigh carefully at the planning stage the pros and cons of the two tier structure and the one tier structure for mixed use condominiums.

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