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Condo form of ownership as a financing tool - by Saul Feldman

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One example of using the condominium form of ownership would be a building consisting of one unit on the lower floors of the building consisting of rental apartments. The remaining units above would be multiple for sale condominium units.

When I draft such a condominium, which I have done for smaller condominiums as well as for large condominiums such as the Clarendon at the corner of Stuart and Clarendon Sts. in Boston, I call the lower floors the “apartment unit.”

One advantage of such a condominium is that the lower floors of multiple rental apartments can be available for separate mortgage financing by one lender while the remaining condominium units each can have separate financing.

The master deed should allow the apartment unit to be “subdivided” into multiple condominiums at the sole election of the owner of the apartment unit. There is no need to get fancy and use a condominium within a condominium structure. A single tier structure works well and keeps everything relatively simple.

As Chapter 183A, the Massachusetts Condominium Statute, is merely an enabling statute, we have the advantage in Massachusetts to be flexible in drafting condominium documents. We should take advantage of our flexible statute in using the condominium form of ownership as a financing tool.

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