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Real estate auctions and fair market value

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As developer's counsel, I occasionally get to figure things out. Here is an example.

Section 5(a) of M.G.L. Chapter 183A, the Mass. Condominium statute, states that each unit owner of a condominium shall be entitled to an undivided interest in the common areas and facilities as set forth in the master deed which created the condominium. Section 5(a) requires that "such percentage shall be in the approximate relation that the fair value of the unit on the date of the master deed bears to the then aggregate fair value of all the units."

Traditionally, "fair value" has meant "fair market value." We would look to real estate appraisers to determine fair market value. Appraisers would look for comparable sales, adjusting for the time of the sale and other factors.

In doing the legal work for auctions of condominiums, however, I have come to realize that the auction determines the "fair value" when the master deed is recorded shortly after the auction.

This makes life easier for the developer, its lender, the buyers, for unit mortgagees and for me.

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