

## **Lease bulk sales gain popularity**

More land owners are selling their lease-fee interests in bulk through associations of apartment owners rather than to individuals, a trend industry observers attribute to new leasehold laws and better-educated buyers.

"Bulk sales are in the better interest of both lessors and lessees," says Michael Pang, principal broker for Monarch Properties Inc., whose firm specializes in leasehold conversions. "The lessees get the fairest price and the lessors sell everything one time."

While this trend may bring about more fair pricing, the selling scene wasn't always so accommodating for buyers, especially before Hawaii's economic slump.

According to Pang, prices for lease-to-fee conversions in the '80s were very close to appraised value because most of the sales were through the association of apartment owners. However, a major turning point came when lessors had an epiphany of sorts: They believed individual lessees were less knowledgeable and prone to "emotional" decision making -- and therefore susceptible to paying higher prices. If lessors went to the individual lessee and circumvented the association, they could get three or four times more for the same property.

Toward the early 1990s, though, Bishop Estate began offering for sale many of the fee interests in its Hawaii Kai holdings -- at prices much higher than market value.

"It was a take it or leave it kind of deal," recalls Pang. And for those who didn't take it, Pang says, the price would only go up. Bishop Estate continued to follow this pattern from about 1991 to 1996, says Pang.

"By my observations, many lessors followed Bishop Estate's lead into selling individually at high prices back in '91 and '92," Pang says.

But Pang doesn't necessarily fault the landowners for what is viewed by many as unmitigated greed.

"Actually, many people would do the same as these lessors if they were in their shoes," he says. "In an open market, the marketplace will eventually adjust prices to fair market value."

From about 1991 to 1998, the predominant method in lease-to-fee conversions was through individual sales. Pang headed a special task force convened by the Honolulu Board of Realtors in 1991 to study fee conversions and help resolve some of the controversy surrounding the issue, as well as to develop educational programs for Realtors and the public at large.

"In those days, the board realized that there was a public lack of knowledge about fee conversions, including amongst its own membership," explains Pang. "Lessors were saying, 'I can get much higher prices than selling to the association of apartment owners in bulk.'"

But in recent years, those lessees who didn't buy have posed a problem to lessors, creating what

Pang calls a market stalemate.

"One flaw in selling individually is that eventually most lessors will have no other reasonable way to complete sales than lowering prices," he says. "The first buyers typically have the best affordability and most willingness to pay; those who don't buy right away typically have the least affordability and the least willingness to pay."

Due to the stalemate and other factors, Pang says, the turning point toward bulk fee sales came about in 1996, when individual sales of lease fees plummeted. Decreasing property values prevented many lessees from buying because they didn't have enough equity in their homes to borrow against.

"It's more of a challenge for lessors when the market is down," says Herb Conley, managing director of Coldwell Banker Pacific Properties. But equally as important was the fact that people started getting wise to the lessors' "divide and conquer" tactics and began to say no, choosing instead to wait it out.

According to Pang, new laws and market conditions have finally leveled the playing field, created a winning situation for both sides and reduced the proportion of individual sales relative to bulk sales.

Under a law called Chapter 38, lessors can be taken to court if the prices they ask are too high. That law, one observer says, has brought down excessive prices and has helped eliminate guerrilla sales tactics the large Oahu lessors used to employ.

Another law that contributed to slowing individual sales was an amendment to 514-C, the state's right of first refusal law, giving associations of apartment owners first rights for fee purchases. This law was passed due to the practice of investors buying the fee interests in condominiums, then turning around and selling the fees to lessees at grossly inflated prices. In 1994, the state Legislature amended 514-C to allow lessors to sell individually to lessees with the condition that a 90-day cooling-off period be included to give the buyer time to think about the sale.

In effect, the amendment backfired on lessors, who thought that because it would enable them to continue to negotiate one-on-one with lessees, the lessees would continue to buy. Though it did, it also gave the lessees a level of protection that was nonexistent prior to the law.

"Right away, once people had time to think about it, they stopped doing it," says Pang. "Sales went down because individual selling, which looks for the highest price, was taking advantage of emotions and the lack of knowledge of the buyer."

Now, more than ever, lessors are willing to negotiate to sell their fee interests in bulk through the association of apartment owners. Though it may not be as profitable for lessors, they are able to negotiate the price in one transaction instead of dealing with myriad owners. And lessees are able to buy the fee-simple interest in their condos at fair market values -- values that are holding steady as the economy looks toward turnaround.

"When the market is in an upswing you have a much better emotional environment for both parties," says Conley, "because people have confidence that they are making a wise investment."