

Condo dilemma: Convert or pay more rent

Many leasehold condominium owners on Oahu have a tough decision to make.

Between now and 2008, some 18,000 owners of units within about 200 leasehold condominium projects will either need to renegotiate the amount of lease rent they pay or purchase the fee interest in the land beneath their condominiums.

The majority of leasehold condominium projects on Oahu, located either in Waikiki or the Moililito-Makiki area, were built in the 1960s or early '70s. Their leases typically run for 55 to 65 years. The upcoming midlease rent renegotiation typically is part of a leasehold property purchaser's contract.

A key problem for condo owners is that plunging property values during the state's economic downturn have left their properties worth far less than the original purchase price.

Thus, owners must either obtain funding to cover the fee-simple conversion, or sustain an increase in lease rent.

To convert to fee simple, typically, condominium associations representing individual unit owners approach the landowners.

Most condominium owners will try to convert their properties to fee simple rather than face a potentially large lease rent increase, said Mike Pang, principal broker with Monarch Properties, one of the few companies specializing in lease-to-fee conversions.

However, he said, many owners are nervous about conversion, partly because they remember the high prices asked by landowners such as Bishop Estate in the early '90s. They also are not anxious to engage in contentious negotiations.

"From 1991 to 1994, you saw a lot of individual offerings at high prices," said Pang. "That scared people, and in the next three years, the number [of conversions] dwindled to just a few hundred each year," he said.

Currently, about 5,000 individual Bishop Estate leasehold condo units remain on Oahu.

Other trusts retaining about 27,000 leasehold condominium units include the Queen Emma Foundation, Queen Liliuokalani Trust and the Weinberg Foundation. First Hawaiian Bank Trust and Pacific Century Trust Foundation handle a number of individual family trusts.

At one time, there were 574 leasehold condominium projects on Oahu. Before 1991, less than 10 percent of these had converted.

But Pang is hopeful things will improve for leasehold condo owners because of the city's so-called Chapter 38 mandatory fair price conversion law passed in 1991.

The law permits, under certain conditions, leasehold condominium owners to buy the fee interest in the land under their condos through the process of condemnation.

In 1998, the U.S. Supreme Court upheld the law, which had been challenged since its inception by Bishop Estate and the Small Landowners Association.

Since most lessors would prefer to negotiate a price rather than prolong the process by appealing a condemnation and risking an uncertain outcome in court, Pang expects most to opt for lease-to-fee conversion.

Some 19 leasehold condo projects on Oahu are currently going through the condemnation process. Pang expects most of them to settle on a mutually agreeable fee conversion price.

But Bishop Estate owns three of the 19 projects, and since the company has tended to litigate against lessees, Pang said he is unsure of the outcome for those condo projects.

Elsewhere, 40 of the 55 owner-occupants at the Camelot, a 26-year-old condominium project in Makiki, have applied to the city to have their apartments condemned because the land owners, the Kekuku Estate and the First Hawaiian Bank Trust acting for the Georgia Souza Estate, have resisted selling the land.

The building, located at 1630 Liholiho St., has 190 individual apartments, 37 percent of which are owner-occupied, according to General Manager Joe Diaz.

"We've been trying to buy the fee since 1985 or '86, but the land owners have been adamant," he said.

Now, under rules of the condemnation process, Diaz and his fellow owner-occupants may have their chance. The rules laid down under Chapter 38 stipulate that at least 25 owner-occupants within any given property who have occupied their units for at least one year must apply for the condemnation.

In addition, the lessees must not own any other fee-simple property on Oahu.

The 40 individual owner-occupants at the Camelot qualify on all counts. With one public hearing completed, Diaz expects the city to approve the condemnation. However, the process could take from one to three more years.

But despite high conversion prices and the length of time lease-to-fee negotiations can take, whether through normal channels or condemnation, Monarch Properties' Pang is hopeful that all remaining leasehold condominium projects eventually will convert to fee simple, with both lessor and lessee getting a fair deal.

Because the law mandates a "fair market value," Pang said it is advantageous to both parties to work out mutually acceptable terms.

"I think within seven to 10 years everyone will convert to more realistic prices, especially now that the lessee has the power to compel the sale," he said.