

Tidelands Resource Council Resolution - Condominium Policy Adopted March 3, 2010

Overview

Historically, the Tidelands Resource Council has approved grants only for condominium associations and not for individual unit owners. However, when one or more unit owners refuse to participate in clearing a tidelands claim, an association is, therefore, unable to receive a grant, the marketability of the remaining unit owners' condominiums is affected since these owners have no other means available to obtain clear title.

To address this issue, the Tidelands Resource Council will accept grant applications from individual unit owners for their undivided share of the common elements of the condominium. For example, in a condominium of four equal units, a single unit owner can apply for a tidelands grant for their share of 25 percent of the claim value.

The Bureau will continue to encourage condominium association grants since processing grants for individual unit owners will greatly increase the workload of the Bureau at times when staff resources are limited.

Application Process

As part of the grant application for an individual condominium unit owner, the Bureau will require the applicant/agent to send a written request to all other unit owners for their participation in the grant process. The request must include an offer of a special 10% condominium discount that will be applied to the grant consideration if all of the unit owners apply together. The discount will not be available to individual unit owners if less than 100% of the unit owners are applying for the grant.

A grant will be processed for an individual unit owner upon receipt of proof that all unit owners' participation has been requested and those same owners have declined. The minimum grant consideration for individual unit owners who apply alone will remain \$1,000. No condominium discount will apply.

Should some, but not all unit owners choose to participate in the grant process, the sum total grant consideration of all the participating units shall be combined with a minimum consideration staying at \$1,000. No condominium discount will apply.

If **all** unit owners agree to participate, one grant in the name of the condominium association and all of the individual unit owners will be processed. A special condominium discount of 10% off the final price after other discounts will be applied to the grant consideration if all remaining interests are cleared simultaneously. In this case, a minimum grant would be \$900. The discount applies only to condominium associations with three (3) or more interests.

If proof of an owner's request for full association participation is not supplied, a grant for the individual unit owner will start to be processed ninety days after the receipt of the application. No special condominium discount will apply.

Application Submissions

In addition to the standard grant application paperwork, applications for individual unit owners must also include:

- a copy of the portion of the master deed or unit deed with the associated affidavit that indicates the owner's share of the common elements
- proof of request for full association participation

Consequences of the Policy Decision

One undesired effect of this policy is that the State may collect more than the value of a claim on a condominium property. For example, a condominium association that is comprised of six owners may have a property with a miniscule claim that qualifies for a minimum grant of \$1,000.00. Applying as an association, each individual unit owner would be responsible for \$166.67, and the State would collect \$1,000.00. However, if those owners have no option but to obtain individual minimum grants at \$1,000.00 each, the State could eventually collect a total of \$6,000.00.

In addition, individual unit grants will be difficult to track. The Bureau will have to carefully record each association, the percentage of the claim that has been cleared, and the unit(s) that have been cleared. The tracking will become complicated over time if the percentage and unit numbers that are cleared increase and/or the property use changes. Should a condominium be torn down and the property rebuilt as a commercial shopping mall, a certain percentage of the claim on that property will still be valid regardless of the activity at the site.

Also, unit owners may be assessed different considerations depending on the date the application is considered by the Tidelands Resource Council. An applicant's 2009 appraisal will not be accepted as the correct value in 2010. For example, real estate land-only values vary over time as will the price considerations associated with the property. In addition, different unit owners may have different price considerations based on their percentage interest in the master deed. Parking spots, boat slips and other miscellaneous interests may also be factors in a unit owner's total interest.

This policy would clear a percentage of a claim but not the entire claim. For example, on a property in which the State has a 100 square foot claim and a grant is issued to clear 25% of the claim, the State would retain a 75% claim on the original 100 square feet. The 100 square feet is not actually cleared until 100% of the claim has been cleared.