

N.J.S.A. 45:22A-23

45:22A-23. Definitions

Effective: July 13, 2017

As used in this act unless the context clearly indicates otherwise:

a. "Disposition" means any sales, contract, lease, assignment, or other transaction concerning a planned real estate development.

b. "Developer" or "subdivider" means any person who disposes or offers to dispose of any lot, parcel, unit, or interest in a planned real estate development.

c. "Offer" means any inducement, solicitation, advertisement, or attempt to encourage a person to acquire a unit, parcel, lot, or interest in a planned real estate development.

d. "Purchaser" or "owner" means any person or persons who acquires a legal or equitable interest in a unit, lot, or parcel in a planned real estate development, and shall be deemed to include a prospective purchaser or owner. However, as used in P.L.1993, c. 30 (C.45:22A-43 et seq.), "owner" means any person owning a unit, or an "owner" or holder of a "proprietary lease," as those terms are defined under subsections i. and k. of section 3 of "The Cooperative Recording Act of New Jersey," P.L.1987, c. 381 (C.46:8D-3), if the development is a cooperative.

e. "State" means the State of New Jersey.

f. "Commissioner" means the Commissioner of Community Affairs.

g. "Person" shall be defined as in R.S.1:1-2.

h. "Planned real estate development" or "development" means any real property situated within the State, whether contiguous or not, which consists of or will consist of, separately owned areas, irrespective of form, be it lots, parcels, units, or interest, and which are offered or disposed of pursuant to a common promotional plan, and providing for common or shared elements or interests in real property. This definition shall not apply to any form of timesharing.

This definition shall specifically include, but shall not be limited to, property subject to the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.), any form of homeowners' association, any housing cooperative or to any community trust or other trust device.

This definition shall be construed liberally to effectuate the purposes of this act.

i. "Common promotional plan" means any offer for the disposition of lots, parcels, units or interests of real property by a single person or group of persons acting in concert, where such lots, parcels, units or interests are contiguous, or are known, designated or advertised as a common entity or by a common name.

j. "Advertising" means and includes the publication or causing to be published of any information offering for disposition or for the purpose of causing or inducing any other person to purchase an interest in a planned real estate development, including the land sales contract to be used and any photographs or drawings or artist's representations of physical conditions or facilities on the property existing or to exist by means of any:

(1) Newspaper or periodical;

(2) Radio or television broadcast;

(3) Written or printed or photographic matter;

(4) Billboards or signs;

(5) Display of model houses or units;

(6) Material used in connection with the disposition or offer of the development by radio, television, telephone or any other

electronic means; or

(7) Material used by developers or their agents to induce prospective purchasers to visit the development, particularly vacation certificates which require the holders of such certificates to attend or submit to a sales presentation by a developer or his agents.

“Advertising” does not mean and shall not be deemed to include: Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, and the like; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider’s lands except when directed to the sale of additional lands.

k. “Non-binding reservation agreement” means an agreement between the developer and a purchaser and which may be canceled without penalty by either party upon written notice at any time prior to the formation of a contract for the disposition of any lot, parcel, unit or interest in a planned real estate development.

l. “Blanket encumbrance” means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a development or affecting more than one lot, unit, parcel, or interest therein, but does not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

m. “Conversion” means any change with respect to a real estate development or subdivision, apartment complex or other entity concerned with the ownership, use or management of real property which would make such entity a planned real estate development.

n. “Association” means an association for the management of common elements and facilities, organized pursuant to section 1 of P.L.1993, c. 30 (C.45:22A-43).

o. “Executive board” means the executive board of an association, as provided for in section 3 of P.L.1993, c. 30 (C.45:22A-45).

p. “Unit” means any lot, parcel, unit or interest in a planned real estate development that is, or is intended to be, a separately owned area thereof.

q. “Association member” means the owner of a unit within a planned real estate development, or a unit’s tenant to the extent that the governing documents of the planned real estate development permit tenant membership in the association, and the developer to the extent that the development contains unsold lots, parcels, units, or interests pursuant to subsection c. of section 1 of P.L.1993, c. 30 (C.45:22A-43). This definition shall not be construed to provide the developer a different transition obligation than that required pursuant to section 5 of P.L.1993, c. 30 (C.45:22A-47), or to require that the developer is allowed to vote in executive board elections.

r. “Good standing” means the status--solely with respect to eligibility to (1) vote in executive board elections, (2) vote to amend the bylaws, and (3) nominate or run for any membership position on the executive board--applicable to an association member who is current on the payment of common expenses, late fees, interest on unpaid assessments, legal fees, or other charges lawfully assessed, and which association member has not failed to satisfy a judgment for common expenses, late fees, interest on unpaid assessments, legal fees, or other charges lawfully assessed. An association member is in good standing if he is in full compliance with a settlement agreement with respect to the payments of assessments, legal fees or other charges lawfully assessed, or the association member has a pending, unresolved dispute concerning charges assessed which dispute has been initiated: through a valid alternative to litigation pursuant to subsection c. of section 2 of P.L.1993, c. 30 (C.45:22A-44); through subsection (k) of section 14 of the “Condominium Act,” P.L.1969, c. 257 (C.46:8B-14); or through a pertinent court action.

s. “Voting-eligible tenant” means a tenant of a unit within a planned real estate development in which:

(1) the governing documents of the development permit the tenant’s participation in executive board elections, and

(2) either (a) the development has allowed tenant participation in executive board elections as a standard practice prior to the effective date of P.L.2017, c. 106 (C.45:22A-45.1 et al.), or (b) the owner has affirmatively acknowledged the right of the tenant to vote through a provision of a written lease agreement or separate document.

This definition shall not be construed to affect voting as an agent of the owner through a proxy or power of attorney. Pursuant to subsection d. of this section, if the development is a cooperative corporation, then, an “owner” or holder of a “proprietary lease,” as those terms are defined under subsections i. and k. of section 3 of “The Cooperative Recording Act of New Jersey,” P.L.1987, c. 381 (C.46:8D-3), is also an “owner,” not a tenant, for the purposes of P.L.1993, c. 30 (C.45:22A-43 et seq.).

Credits

L.1977, c. 419, § 3, eff. Nov. 22, 1978. Amended by L.1993, c. 30, § 7, eff. July 29, 1993; L.2006, c. 63, § 39, eff. Oct. 31, 2006; L.2017, c. 106, § 2, eff. July 13, 2017.

Current with laws through L.2019, c. 35

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