Condo Hotel Lawyer: What is happening with the condo hotel sector?

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Hotel Lawyer with more on the long-term future of condo hotels.

It is interesting that I got calls from two reporters about the state of the condo hotel sector this week. One from a major daily paper doing background research, and the other from a well-respected industry publication, MortgageOrb, published by Zakin Publications (which also publishes Commercial Mortgage Insight and Secondary Marketing Executive.)

Condo hotels have not been in the news for some time, and as hospitality transactions heat up, many are now wondering how and when this niche product will be resurrected.

Phil Hall of MortgageOrb asked some excellent questions about the condo hotel sector and our interview, titled Jim Butler Checks Out the Condo-Hotel Niche, published in MortgageOrb’s Person of the Week column, is reprinted below.

Jim Butler Checks Out The Condo-Hotel Niche
In from The Orb: Person of the Week
By Phil Hall on Tuesday 26 April 2011

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PERSON OF THE WEEK: In concept, condo-hotels represent the best of both worlds (in this case, the worlds of residential and commercial real estate). In reality, however, this niche sector experienced the worst of both worlds during the economic crisis. But with commercial real estate recovering at a faster pace than residential real estate, how will this niche respond? This week, MortgageOrb speaks with Jim Butler, chairman of the Global Hospitality Group at Los Angeles-based Jeffer Mangels Butler & Mitchell LLP, on the near-future of condo-hotels.

Q: For the benefit of those who are not familiar with the concept, what is a condo-hotel?

Butler: The “condo-hotel” phrase was widely used to apply to different types of hotel mixed-use projects. At one end of the spectrum were projects intended to be operated as hotels, where the hotel had few or no dedicated hotel rooms, and individual owners of condominium units agreed to arrangements by which their condo units were treated as part of the rooms inventory of a hotel.

At the other end of the spectrum were hotel projects with complete dedicated hotel-room inventory owned by the owner of the hotel, and additional for-sale condominiums that might – or might not – be added to the rooms inventory, through the hotel or otherwise. And, of course, there were lots of variations or combinations of different residential, time-share or fractional, entertainment, restaurant, spa and related components in other projects.
I prefer the term “hotel mixed-use” for projects that combine a hotel with condominium or residential and other uses, and I use the term “condo hotel” for the first type of project mentioned where some or all of the intended room inventory consists of condominiums sold to individual owners. I refer to the other end of the spectrum – where for-sale condos or residential units have been sold and are not intended to be a critical part of the hotel-rooms inventory – as hotel condos.

Q: How would you categorize the overall state of the condo-hotel sector?

Butler: With a few notable exceptions, almost any project involving a condominium component has been in deep hibernation since the financial meltdown. Hibernation, as you may recall, is an altered metabolic state that certain animals assume to survive long winters. They may actually appear dead if discovered in this state, and it takes a while for them to recover from this state to even a dazed wakefulness. It is not like a normal sleep, where they are easily awakened or metabolic functions are near normal levels.

For hotel mixed-use projects with condominiums in either a condo-hotel or hotel-condo structure, the key thing in the coming months will be determining whether the project is hibernating or whether it actually died of hypothermia during the big financial freeze-up. The conditions can be difficult to differentiate initially.

Q: What impact did the recession have on the condo-hotel sector, compared to on the overall hospitality sector?

Butler: The hotel industry suffered its worst downturn in modern history, with net operating income dropping almost 48% virtually overnight. It has now stabilized, and fundamentals – as well as values – are improving.

The condominium component of hotel mixed-use projects did not just fall by 40% or 50% – it stopped selling, or being financeable. Existing consumer contracts to buy the units fell out or, more often than not, defaulted. Construction funding locked up as Lehman Brothers filed for bankruptcy, banks were seized, and consumers were worried about whether they would still have jobs, much less whether they needed second or third homes.

Q: As the economy begins to improve, will the condo-hotel sector be able to improve along with it?

Butler: We believe that hotel mixed-use projects are an enduring and viable part of the landscape, but it will take some time for the condominium part of the equation to become viable again. As with all hotel projects, the viability will depend on a lot of factors, including location market segment, regime structure, amenities and value perception, consumer financing, and other factors.

The good condo-hotels and hotel- condos will awaken from their hibernation. The ones that froze will thaw and decay.

We have said for many years that condo hotels have earned an enduring place in the landscape of hotel and real estate development. But these kinds of mixed-use projects are complex and must be approached knowledgeably. If you did not see it, we recently wrote about an important decision in favor of condo hotel developers. This case involved the dismissal of a lawsuit filed against the developer, broker and lender of a condo hotel project, the Hard Rock Hotel San Diego.
To read that article go to:

The Hard Rock Hotel San Diego — a condo hotel — did NOT offer “securities” according to new appellate court decision in Salameh v. Tarsadia Hotel. Lower district court dismissal upheld.

Other condo hotel resources

You can access the full library of Condo Hotel materials on Hotel Law Blog by going to the home page, selecting the tab at the top that says “HOTEL LAW TOPICS”, and then clicking on “Condo Hotels” in the drop down menu . . . or by clicking here.

Below is a partial listing of articles by JMBM’s Condo Hotel Lawyers:

- Condo Hotel Lawyer: What is a Condo Hotel?
- The "new breed" of condo hotels — Key to financing new hotel development? Selling condo hotels as “securities” under new SEC Rule 506(c) . . .
- Using condo hotels for financing new hotel development: Traditional condo hotel structures as “non-securities”
- Condo Hotel fundamentals — 5 Keys to Success!
- Condo Hotels’ enduring legacy: hotel-enhanced mixed-use
- Hospitality Lawyer: The 5 biggest misconceptions about Condo Hotels
- Condo Hotel Lawyer: Why does the SEC care about condo hotels?
- Condo Hotel Lawyer: Standards must be “built in”
- Condo Hotel Lawyer: Not so fast! Locking down the condo hotel structure
- Condo Hotel Lawyer — What is fanning the condo hotel wild fire in Latin America, the Caribbean, Europe, China, India and the Middle East?
- Condo Hotel Lawyer — Las Vegas Report: What drives successful sellouts today?
- Condo Hotel Lawyer — What in the world is going on with condo hotels now?
- Hospitality Lawyer — Trump’s luxury residential mixed-use project in Hawaii sells out in 8 hours. New sales record claimed.

This is Jim Butler, author of www.HotelLawBlog.com and hotel lawyer, signing off. We’ve done more than $87 billion of hotel transactions and have developed innovative solutions to unlock value from hotels. Who’s your hotel lawyer?

Our Perspective. We represent hotel owners, developers and investors. We have helped our clients find business and legal solutions for more than $87 billion of hotel transactions, involving more than 3,900 properties all over the world, including more than 100 condo hotels and hotel condos. For more information, please contact Jim Butler at jbutler@jmbm.com or +1 (310) 201-3526.

Jim Butler is a founding partner of JMBM, and Chairman of its Global Hospitality Group® and Chinese Investment Group™. Jim is one of the top hospitality attorneys in the world. GOOGLE “hotel lawyer” and you will see why. Jim and his team are more than “just” great hotel lawyers. They are also hospitality consultants and business advisors. They are deal makers. They can help find the right operator or capital provider. They know who to call and how to reach them.