

# "I Heard That Selling Condominium Units Could Be Deemed to Be Selling Securities, Can That Be True?"

It might surprise you to know that the sale of a condominium unit can be deemed to be the sale of a security. Selling securities presents many challenges in terms of disclosure and reporting requirements, all of which are quite cumbersome and can cause compliance (and noncompliance) to be very expensive. Determination of whether a sale of a condominium unit would be considered a sale of a security can depend heavily on the seller's marketing tactics with respect to the condominium unit.

Historically, especially in northern Wisconsin and around the Wisconsin Dells area, condominiums have been found to be lucrative investments. As a result, sellers are easily tempted to make the following pitch to their buyers: "you, buyer, will buy a unit . . . I, seller (or my affiliate) will rent it out most of the year for a management fee . . . and, you, buyer, will enjoy the remainder of your rental proceeds as profit . . . now, isn't that a great investment?" Making such representations is problematic if you intend to avoid the need to comply with securities law. Such representations are even more problematic if they include a representation that the rental proceeds are to be pooled with the rentals of the other units as in the following example: 25 units are rented throughout the year and seller-affiliated management company will pay each of the 25 unit owners 1/25 of all of the combined rental proceeds for such 25 units (less the management fees, of course) for that year.

The idea that a buyer may be buying a condominium unit as an investment does not, by itself, make the purchase of the condominium unit into the purchase of a security. However, if the seller sells a condominium unit with the idea of it being an investment, however that concept may be conveyed, such sale of the condominium unit may be deemed to be a sale of a security which will make it subject to the cumbersome and expensive disclosure and reporting requirements.

[We can help you](#) (a) analyze your intended marketing strategies in light of the relevant securities laws, (b) structure those strategies to avoid inadvertent representations which could be construed as a violation of those securities laws or (c) comply with the necessary securities laws if you intend to sell your condominium units as securities.

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