



Affordable housing ideas across USA - by Thomas Kearns

November 20, 2018 - Front Section

A significant part of my practice involves market rate residential development but it often touches on workforce and affordable housing. Affordable housing is a politically difficult issue due to the cost of municipal subsidies and the seeming impossibility of obtaining neighborhood acceptance of new affordable housing.

I recently attended an affordable housing seminar at the fall meeting of the American College of Real Estate Lawyers, a national association of senior real estate lawyers. The seminar focused on the reasons for evictions and the creative ideas being pursued across the country to alleviate homelessness. The seminar was well attended with thirty plus members of the college. The participants' ages skewed older given the college's membership profile and several had extensive experience with both market and affordable housing.

The seminar created more questions than answers in my mind but hearing the thoughtful and practical ideas was energizing.

Among the issues discussed was the surprisingly high number of working people who are evicted because of defaults on student loans. Since lenders are entitled to garnish wages after a default, the tenant's ability to pay rent is destroyed. While homestead exemptions are available in bankruptcy to homeowners, tenants are not entitled to an exemption for rent paid on their residence.

A practitioner mentioned a project in Los Angeles where bridge housing is being created for people currently in tents to be sheltered in easy to install temporary shelters such as trailers in unused parking lots.

A lawyer representing a large single family home developer helped his client impose a modest private transfer fee payable on each house sale to a fund which collects the fees and contributes to organizations developing affordable housing—the fund had contributed millions over the years. I have not seen a New York cooperative, condominium or HOA impose a similar fee.

I was struck by the earnestness of the participants from all over the U.S. looking for creative and practical solutions to affordable and workforce housing. It was quite different from the typical politically charged New York discussions which have the effect of discouraging individual actions since they seem hopeless.

So here are two ideas for New Yorkers:

1. The real estate industry should consider working with the banking industry and New York's legislature to balance the equities more in favor of workers so that rental expenses can be protected from wage garnishments.

2. Charitably-minded New York cooperatives, condominiums and HOA's should consider imposing a modest transfer fee payable to neighborhood organizations working to combat homelessness.

My own view is that housing is a basic human right and each of us needs to take whatever steps, whether big or small, to contribute to solutions.

Thomas Kearns is a partner with Olshan Frome Wolosky LLP's real estate department, New York, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540