

**Assessing Condominiums:  
Present Interests,  
Uncommon Elements  
& Common Sense.**

**Bristol County Assessors Association**

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# Let's Provide a Little Context

- Millennials and empty nest Baby Boomers are being increasingly drawn to condominium living
  - Affordability
  - Cost Efficiency
  - Ease of Maintenance
  - Access to Multiple Amenities

# Let's Provide a Little More Context

- It's not your grandfather's condominium development
  - Condo Conversions
  - Mixed Residential/Commercial
  - Phased Developments

# A Quick Primer on Interests

## Present Interest

An interest that can be presently exercised (that is, the interest holder can presently possess, use, encumber, transfer or exclude others.

## Future Interest

An interest that can only be exercised upon the happening of a future event.

# Assessing Condo Interests

MGL Chapter 59, Section 2A(a) provides, in part:

“Real property for the purpose of taxation shall include all land within the commonwealth and all buildings and other things thereon or affixed thereto, unless otherwise exempted from taxation under other provisions of law.”.

# Assessing Condo Interests

MGL Chapter 183A, Section 14, provides, in part:

“Each unit and its interest in the common areas and facilities shall be considered an individual parcel of real estate for the assessment and collection of real estate taxes but the common areas and facilities, the building and the condominium shall not be deemed to be a taxable parcel”.

# Assessing Condo Interests

In discussing the distinction between present and future interests, the Appeals Court observed that an unexercised development right could be converted into a present interest by initiating affirmative actions, such as, “build[ing] the additional buildings and facilities and amend[ing] the master deed.”

*First Main St. Corp. v. Assessors of Acton ,  
49 Mass. App. Ct. 25, 28..*

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# The Seekonk Condo Case

- The issue of when an “unexercised development right” (a future interest) becomes a taxable present interest was the central issue in *R.I. Seekonk Holdings, LLC v. Board of Assessors of Seekonk*.
- The Seekonk Assessors had requested and obtained a “Present Interest Letter” from MassDOR that was written more like a legal opinion than a simple authorization.



# The Seekonk Condo Case

- As of January 1, 2012:
  - 8 Units were 100% Completed
  - 4 Units were 90% Completed
  - 24 Units were 30% Completed
- The Master Deed had not been amended to include the new units.

# The Seekonk Condo Case

- R.I. Seekonk Holdings argued that the issue of taxation was governed by Chapter 183A and since the Master Deed had not been amended, the units were not taxable.
- The Seekonk Assessors argued that the act of partial construction had converted the future interest to a present interest regardless of whether the Master Deed had been amended.

# The Seekonk Condo Case

- The ATB Agreed with the Seekonk Assessors.
- The Appeals Court affirmed the decision of the ATB.
- The Supreme Judicial Court refused further appellate review.
- So what are the lessons of the Seekonk Condo Case?

# Lessons of The Seekonk Condo Case

- Once actual construction has begun, the future development right is converted to a present taxable interest.
- It is irrelevant whether the Master Deed has been amended when determining whether an interest in a partially constructed unit is future or present.
- The “Present Interest Letter” was important, but no longer available.

# Mixed Use Condominiums

Residential

Commercial



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# Shopping Center Condominiums



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# Condominium TIFs & TIEs

- Parking Areas in Commercial Condos can be treated as “exclusive common elements” for TIF Purposes.
- Only the Residential Portion of a Mixed Use Condominium is used to calculate the Base Value in a TIE.

# Miscellaneous Musings

- General Court's Efforts to Pass a Solar PILOT Bill.
- Utility Net Book Value/Blending Values with RCNLD.
- TIF Agreements.



*Thank You!*

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