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ASSESSING MIXED-USE PROJECTS IN FLORIDA IN 2019

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The desire for live, work and play lifestyles is not slowing down in Florida as major mixed-use projects are continuing to be developed throughout the state, from Miami Worldcenter to the Cascades Project in Tallahassee. However, the popularity of these mixed-use projects has created a legal conundrum.

Previously with mixed-use projects, there was an inability or reluctance by county property appraisers to assess and tax each component of the project (residential, commercial, retail, etc.). Yet, while a mixed-use project can be developed and operated by a single owner, a developer should be able to maximize the value of the development by allowing each component to be owned (and thus financed) separately by an entity with a special expertise in such particular use.

To address this situation, effective March 23, 2018, CS/HB 7087 created a new Section 193.0237 of the Florida Statutes, which provides that a separate tax folio number must be assigned to each portion of a building that is separately owned but does not consist solely of a single condominium, cooperative or timeshare development. Such buildings are called “multiple parcel buildings” in the new statute. The multiple parcel building’s defining trait is that the separately described portions of the building are located on or above the same land. The new statute applies to any multiple parcel building that is substantially completed as of Jan. 1 of the respective tax year. Florida will begin applying assessments for the year 2018, and as we enter 2019, developers should be paying attention to this beneficial statute.

The new law is expected to facilitate the development, financing and marketability of these projects by removing the risk to owners and lenders that another owner will fail to pay the property taxes on another component. It can increase value by allowing each portion of the project to be separately owned and operated by persons who have expertise in that particular area, meaning each portion can be valued separately with the ability to attract a more extensive group of investors.

As to the assessment of the underlying land, the new subsection 193.0237(2) provides that the land under a multiple parcel building is not to be separately assessed, but its value is to be allocated among the separate portions of the building. Subsection 193.0237(3) provides that this land value must be allocated in the same proportion that the just value of each portion of the building bears to the total valuation of all the portions.

This property tax law should eliminate many of the questions and risks associated with the development and financing of mixed-use buildings and is a positive change for all developers, lenders and investors.

For more information about how the new property tax law is impacting the mixed-use real estate sector, contact Barry D. Lapides on our Business, Finance & Tax Team.

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