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Apthorp Rentals Raise Questions

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Some recent condominium buyers at Manhattan's famed Apthorp building are looking to rent their newly purchased apartments, a move that may conflict with their signed declarations to use the apartments as their own residences.

The effort by some owners to rent out their condos could spark additional scrutiny from the New York attorney general into the Apthorp, the financially challenged Upper West Side building famous for celebrity residents and its grand architecture.



The Apthorp condominium residence.

In May, Attorney General Andrew Cuomo's office accepted the Apthorp's plan to convert 163 apartments to condos. That approval was based on at least 15% of the units, or 25 apartments, being in contract. According to state law, the sales only count if the buyer or an immediate family member intends to live at least part time there.

So far, about 20 sales have closed and about 16 are in contract. When the units sold, the Apthorp developers, a group lead by Africa Israel USA, required buyers to sign a declaration that they or a family member would occupy the units as a residence, a customary process with such conversions, according to people with the matter. But at least three of the units have now been listed for rent on broker websites.

One new owner, Joanne Sacks, closed on an 11th floor apartment at the Apthorp last week for about \$4.4 million, according to public records. This week, she is offering to rent the unit at \$23,000-a-month, according to the website of her listing agent, Frances Katzen of Prudential Douglas Elliman.

When asked about the declaration buyers were required to sign, Ms. Sacks said, "It's really unclear what's going to happen. It's not clear if I'm going to rent it out."

There is no evidence to suggest that the Apthorp developers engaged in any improper behavior with regard to the sales. A spokeswoman for the Apthorp developers declined to comment for this story.

In another listing, an unnamed buyer who closed on the Apthorp condo earlier this summer, is asking \$18,000-a-month in rent for the 3,000-square-foot, four-bedroom unit, according to Richard Steinberg, an agent for Warburg Realty Partners. The buyer also is listing the unit for sale with an asking price of \$7.45 million, Mr. Steinberg says. "They purchased it and are having second thoughts," he says.

Also, the website for Harvey Siegel, a broker with Fenwick Keats Goodstein, lists a three-bedroom apartment on the tenth floor at the Apthorp available for \$20,000 a month. He didn't return calls for comment.

Questions about apartment rentals are the latest to arise surrounding the condo-conversion of the 102-year-old landmark building, which has become one of the longest-running sagas in New York real estate. The Apthorp was sold near the peak of the market for \$426 million, one of the highest prices ever paid for a rental building. Later on, developers feuded in court before one of the partners was replaced. A lender threatened foreclosure before the debt was restructured.



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Last month, the attorney general's office said it is taking a look at the recently completed debt restructuring between the developers and Anglo Irish Bank to determine if the parties need to disclose it to potential buyers.

Some real-estate attorneys say that any owner immediately renting a newly purchased apartment calls into question the buyer's intentions. "It raises questions about whether the assertion to live there was true at the time it was made," says Matthew Leeds, a real-estate attorney with Gafner & Shore in New York. "That in turn raises the question of whether that contract should count toward the plan's effectiveness."

If the attorney general's office believed there were false statements made about an apartment building's occupancy, it could investigate and take action against an individual buyer, attorneys say. The attorney general could also take action against a developer, if the office determined the developer induced buyers to make false statements.

Andrew Ratner, the chief operating officer for Broadwall Consulting Services, which is managing the building, previously told the Journal that the Apthorp plans to begin "an active marketing campaign in the fall."

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