

PRECONSTRUCTION SALES



Compliments of

WHAT IS A PRECONSTRUCTION SALE?

Preconstruction sales are real estate purchase transactions which commence prior to construction of the new project's (typically condominiums) completion. Preconstruction prices are usually lower than those of existing or "already built" properties. (Recently, a Florida beachfront condominium unit was offered for \$190,000 during the Reservation Agreement Phase and was worth \$270,000 when the unit was completed.) Developers discount the prices of these units to create incentive for purchasers to buy a property "they can't see, feel or touch". Developers sell preconstruction properties in order to secure their construction loans on the project. Lenders may require that 50% to 80% of a project be pre-sold in order to approve the construction loan and subsequently the beginning of the construction process.

THE PROCESS

1. Reservation Agreement – The developer organizes site plans, floor-plans, prices and amenities of the Condominium project which, initially, are subject to change. Units are reserved by purchasers with a minimum "intent to buy" deposit which is usually 5% or less of the purchase price. The deposit is placed in an interest-bearing trust account and is refundable to the purchaser at any time during this stage.
2. Right of Rescission Period – The condominium documents, which have been approved by the State, are delivered to the Purchaser for examination. These documents contain the exact details of the project, including the final site plan, floor-plans, amenities, by-laws, etc. A potential purchaser then has fifteen days to approve the documents and decide whether they will complete the purchase of the property specified.
3. Contract for Sale – The Buyers deliver the balance of the required earnest money deposit, which is usually 20% of the contract purchase price. At this point, the contract becomes binding to both parties.
4. Closing of the Sale – The Certificate of Occupancy is issued upon completion of the condominium unit.

The purchasers perform a walk-through inspection of the property and attend the closing where funds are disbursed and settlement is completed.

PURCHASING A PRECONSTRUCTION PROPERTY IN A §1031 TAX DEFERRED EXCHANGE

Be sure to inform the seller (developer) of the intent to perform an exchange and that the contract will need to be assignable to a "Qualified Intermediary." Although closing dates for preconstruction properties typically are not specified in advance, it is critical that an investor desiring to perform an exchange meet the following time requirements: (A) After the sale of the relinquished (sale) property, the Exchanger must identify the replacement (purchase) property(ies) within 45 days of this closing. (B) The purchase of the replacement property must be completed within 180 calendar days from closing on the relinquished property. Clearly indicate in the preconstruction purchase contract the purchaser's intent to perform a tax deferred exchange. One suggestion to help alleviate time pressures for closing on the replacement (preconstruction) property is extending the closing date on the relinquished property once it is under contract.. The 45/180 time requirements begins after closing on the relinquished property, so postponing this closing gives an investor a higher probability that the replacement property will be completed within the exchange period.



ASSET PRESERVATION
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A National IRC §1031 "Qualified Intermediary"

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