

Condo board moves to evict residents who sell to developer

By DENNIS RODKIN | 



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Photo by Dennis Rodkin

A Streeterville condo building's board recently gave itself the power to kick out residents who sell their units to a real estate firm that's been buying them up.

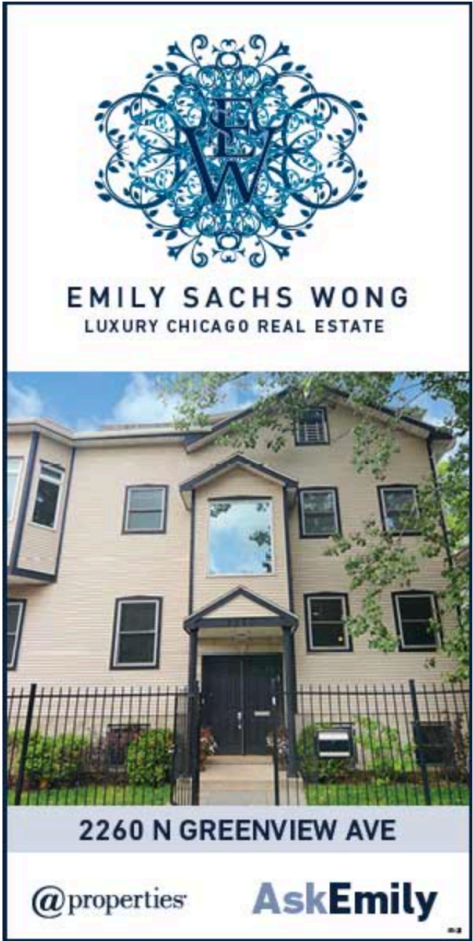
Since July, a development firm has spent at least \$6.9 million and possibly as much as \$12.8 million buying condos at 540 N. Lake Shore Drive. In some of the units, the former owners have a deal with the buyers—legal entities associated with Chicago firm MCZ Development—to stay on as residents rent-free and temporarily.

Last week, the board of 540 Lake Shore Drive's homeowners association unanimously voted to change the building's rules on renting condos to specifically include the situation of those former owners, according to a lawsuit MCZ filed last week. The new rules go on to say that the board has the authority to evict those residents, according to the suit.

"Let's call a spade a spade: The board is trying to interfere with a prospective sale" by other residents who might want to sell to MCZ, said Michael Delrahim, managing partner of Chicago law firm Brown Udell Pomerantz & Delrahim, a Chicago law firm.

The threat of eviction, Delrahim said, "takes away the incentive to sell for longtime owners who may want to monetize their unit now but stay in the building they like a little longer." Delrahim, who is not involved in the spat, handles real estate issues and represented the condo board at Kennelly Square in Lincoln Park, which recently **sold its 268 units** to a firm that will switch them to rental.

In the lawsuit filed last week in Cook County Circuit Court, MCZ argues that letting the five-member board adopt the change violates Illinois condo law, which says changes to a condo association's governing declarations require approval by 51 percent of ownership.



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"They bypassed the rules to stick it to our client," said Bill Choslovsky, an attorney with Chicago firm Ginsberg Jacobs who represents MCZ in the case. "If you want to change the declarations because you don't want (my client) buying condos in your building, there's a legal way to do that, but you can't do an end run around the law."

Homeowners association President, Sally Jechura did not respond to requests for comment. The association's lawyer, Kelly Elmore of Kovitz Shifrin Nesbit, was not able to provide comment by press time. MCZ principals Michael Lerner and Michael Lerner Jr. did not respond to requests for comment.

Choslovsky said MCZ agreed to let several of the residents who've sold their units stay in place without paying rent. He would not say how many units are involved or what length of stay they were promised.

A PLUM SITE

In the new rules the board adopted last week, the definition of a leased unit was expanded to include not only people paying rent but those "wherein possession of a unit is provided prior to or after transfer of title," according to the suit.

Choslovsky said that language most likely applies only to people who have recently sold to MCZ, though he could not be certain of the terms of other residents' living arrangements. "We don't want to be treated differently than anyone else in the building just because we're a developer, which I understand is a swear word to some people," he said.

Between July and late February, legal entities connected with MCZ spent more than \$6.9 million buying 19 of the building's 150 units, according to public records. With another handful of units MCZ already owned, the firm has spent at least \$8.1 million on 24 condos in the building.

A lawyer for MCZ, Matthew Brotschul, a partner at Brotschul Potts in Chicago, said his clients have bought 31 units, though Crain's could not find the rest in the records. Brotschul declined to give a total amount the firm has spent but said "they have six or seven more under contract."

Crain's estimates MCZ's affiliates may be spending more than \$12.8 million so far on condos in the building they have bought or committed to buy.

Brotschul would not say what MCZ's plan for the site is, but it's a plum one in a neighborhood that has heated up in the past several years.

540 N. Lake Shore is a seven-story structure surrounded on three sides with high-rises and on the fourth with direct views of Lake Michigan over the Drive.

A decade or so ago, low-rises and surface parking lots filled most of the blocks in southeast Streeterville, north of the Chicago River and west of Lake Point Tower and Lake Shore Drive. Many of them have given way in either the last building boom or this one. Now there are condos in 46-story 600 Lake Shore Drive immediately north of the 540 building and apartments in 47-story 500 Lake Shore Drive, half a block south.

Hundreds more new units are on nearby blocks, including the 45-story Moment apartment building at 545 N. McClurg Court and the 69-story One Bennett Park, a combination of condos and rentals under construction at 451 E. Grand.

"There were lots of land sites available 10 years ago, but now they're all built," said Curt Bailey, president of Related Midwest, whose Streeterville portfolio includes 500 Lake Shore Drive, Bennett on the Park and the former site of the Chicago Spire. He believes the neighborhood, not far from Michigan Avenue and the lakefront path and with views of skyline, lake and river, has years of heat left in it.

The homeowners at 540 Lake Shore Drive are in the catbird seat, he said. "They have the opportunity to control a piece of Lake Shore Drive real estate," he said, and "there's none of it left."