

REAL ESTATE LAW

Focus on partnership interests, 'tag-along' and 'drag-along' rights

Assume that Bill and Ted formed a limited partnership to purchase land, that each owns a 70 percent and a 30 percent ownership interest in the limited partnership, respectively, and they have always agreed on major issues in the past.

In the instant transaction, they have gone so far as to have the limited partnership purchase the land on which multi-family housing will be constructed. However, a third-party purchaser has offered to purchase Bill's 70 percent ownership interest in the limited partnership.

Ted wants his own interest to



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be purchased as well, but the third-party purchaser only desires to own a majority, rather than all, of the outstanding ownership interests of the partnership. Moreover, what if a third-party purchaser were to offer to purchase all of the ownership interests of the limited partnership, and Ted refused to sell? What actions could Bill and Ted have taken to protect themselves in these situations?

Typically, the limited part-

nership is governed by a limited partnership agreement. Ted could have protected his rights by negotiating a "tag-along" provision in the limited partnership agreement. The "tag-along" provision sets forth a method whereby Ted can, as the minority partner, have the right to participate in a sale of the ownership interests in the event a certain amount (usually more than 50 percent) of all of the ownership interests is purchased by a third-party.

In other words, the majority holder of ownership interests of the limited partnership would be unable to sell without having

the minority holder of ownership interests included in the sale. Generally speaking, this "tag-along" provision would force the third-party purchaser to purchase Ted's 30 percent ownership interest at the same proportionate price as the price offered to Bill.

Bill could have protected his rights by insisting a "drag-along" provision be included in the limited partnership agreement. The "drag-along" provision sets forth a method whereby Bill may, as the majority investor in the limited partnership, cause a future sale of all of the ownership interests

(including interests of minority owners who would otherwise prefer to not sell) to occur after a third-party offers to purchase all of the ownership interests.

In other words, if a third-party purchaser offered to purchase 100 percent of the ownership interests of the limited partnership, and Bill (as the majority in ownership interests) accepted, then Ted would be forced to sell his minority interests to the third-party purchaser at the same proportionate price as the price offered to Bill.

As demonstrated, "tag-along" and "drag-along" provi-

sions can be very useful in the context of defining business relationships. Moreover, such provisions can be used not only for limited partnerships, but also for limited liability companies, corporations and other various forms of entities.

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Sienna honors developer with dedication of History Park

Sienna Plantation, a master-planned community developed on historic Fort Bend property, recently dedicated its History Park. The ceremony honored the founder of The Johnson Development Corp., Larry D. Johnson.

Johnson was surprised on his birthday by family and friends with the unveiling of a bronze bust and plaque recognizing the 47 years he has devoted to real estate development. Family members Suzie Johnson, Chad Johnson, Jennifer Johnson, Nick Johnson, Larry Seligman and Scott Seligman unveiled the bust and the plaque that reads: "Larry D. Johnson, Developer, Steward of the Land, Cowboy at Heart."

At the dedication ceremony, Missouri City Mayor Allen Owen proclaimed March 7 Larry D. Johnson Day in Missouri City, and the Hon. Judge Robert Hebert proclaimed the same in Fort Bend County.

Dr. Jim Jackson of Chapelwood Methodist Church in Houston gave the blessing. Guests included former Texas governor Mark White and his wife, Linda Gail White, and Joe B. Allen of Allen Boone Humphries Robinson

along Waters Lake, as are large, black sugar kettles and massive bells that called workers to meals during the 1800s when the property was a prosperous sugar plantation owned by a series of famous entrepreneurs including two former Houston mayors. In the 1950s and 1960s, the bells summoned Catholic Sisters to prayer, as the property had become a religious retreat owned by the Catholic Diocese of Houston-Galveston.

The park includes a walking trail and benches that provide views of Waters Lake. Visitors can read about the history of the land and its colorful owners on signs displayed at the nearby train depot.

In the early 1980s, Johnson envisioned the Sienna Plantation property as a thriving community with residential and commercial areas, parks and greenbelts, and an array of recreational opportunities. During the real estate downturn of the 1980s, the project was put on hold. But, Johnson, one of the few survivors of the bust, persevered and gradually assembled the acreage needed for the development. Sienna Plantation opened in October 1997.

"My father truly is a vision



UNVEILING: Suzie and Larry D. Johnson attend the dedication.

is a pioneer. Sienna was one of the first communities in the nation to implement a fiber-optic cable infrastructure and require builders to install an in-home wiring system so homeowners could take advantage of bundled telecommunications services.

Like the early entrepreneurs who owned the Sienna Plantation land, Johnson dreams big. His vision has guided the development of this community, making it a place where people

companies have transformed more than 43,000 acres into thriving residential communities and commercial entities. He has been instrumental in more than 100 development projects. Johnson founded The Johnson Development Corp., 33 years ago. Other projects include Fall Creek, Riverstone, Tuscan Lakes, Woodforest, Edgewater and Silverlake in Houston, and Towne Lake, BridgeMill and Lake Arrowhead in Atlanta.

OPEN HOUSE

Possible tax credit could bring more home buyers

By JIM WOODARD
Copley News Service

A proposed provision in the planned economic stimulus package would offer a tax credit for home buyers.

If enacted, it would help reduce the large amount of new housing inventory on the market, according to the National Association of Home Builders.

"It would be particularly helpful to first-time buyers," said Lawrence Yun, chief economist for the National Association of Realtors.

"More first-time buyers are creating a chain reaction in the market, allowing more current homeowners to trade up into their next home. A tax credit for first-time buyers could give them a boost in confidence...."

"People will realize that the worst in housing is coming to an end if they see bold measures," Yun said.

The association pointed out that such a plan worked before. In 1975, when inventories were very high, a \$6,000 home-buyer credit brought in a substantial number of buyers

vided by a temporary home-buyer tax credit," said the association's David Seiders. "Tax credits for the purchase of a home are a means of eliminating excess inventory, relieving pressure on falling housing prices and ending the wait-on-the-sideline strategy some potential buyers have adopted."

The recently enacted Economic Stimulus Act of 2008 could fall short of achieving its intended results because it does not address the problems posed by the housing contraction that are the root of today's economic and financial market problems, Seiders said.

Q: To what extent is the number of senior homeowners growing?

A: The number of households headed by persons more than age 55 is growing and will continue to increase. They now make up 20.9 percent of all new-home buyers and 24.3 percent of new-custom home buyers, according to a study by the National Association of Home Builders.