

Peluso & Weintraub, P.C.

Owning Investment Properties

We live in an affluent area. Some of the most affluent among us often own more than one property...perhaps a home in Florida or on Long Beach Island and a few rental units in Seaside. They may also own a wonderful primary residence and have a fair amount of money saved. All of the investments properties may be owned in the individual's name. Each is insured and there may even be an umbrella insurance policy over and above that.

Such a nice picture, indeed...until someone becomes injured when a deck collapses, there is an oil tank leak or some such other problem. Uh-ohh...liability may even exceed coverage...and when it is time to pay up, pay up one must, even if it means going into savings, selling other properties including the primary residence, whatever it takes.

Did you ever see an apartment complex or attached condominium community being built? If so, you might have noticed that between each unit is a firewall, a break from one unit to another, which is designed to slow or stop the flames from one unit to another in the case of a fire. When an investor owns multiple parcels of real property, each should perhaps have a similar type of fire wall, however, not only of the construction type, but also, of a legal nature.

Consider titling each such investment property in a separate entity. Instead of owning all the properties in one's personal name, each such unit may be best owned by a separate corporation or limited liability company, which with reference to liabilities, acts as a fire wall of sorts. If there is a liability problem that arises from one unit, that liability remains contained to the entity owning that unit. Therefore, even if the level of damages goes beyond what is covered by insurance and the value of that property, other assets owned, such as other investment properties, savings, and the primary residence, may be protected.

Such designs and strategies are not reserved for the Donald Trumps of the world, but rather, work very well for the regular Jane or Joe. These entities can be formed so that there is not any negative tax implication and that any additional operating or organizing costs are kept to a bare minimum. All investment property owners that engage our office to assist with their planning hear this speech, most of them heed it, and the serious players often come in for such assistance without any prompting. Any more, it is standard operating procedure.

So, if you are a high-roller investment property owner, just want to be one, or own investment properties and just don't like the idea of placing all your assets at risk due to a liability incurred, make sure to have ownership of your assets, including investment

properties, in order. To do so often involves fire walls, of the legal variety. Consider limiting your liability through the proper titling of such properties in entities such as those discussed herein. Plan early. Be certain.

Disclaimer

This writing is not intended and should not be taken as legal advice. The reader or any person who may become aware of the content of this writing should not rely or act upon any information or content included herein in any fashion or to any extent whatsoever. The author and/or publisher of this writing disclaims any and all liability associated with reliance upon this writing and for any damages that may occur as a result thereof. If the reader or any other person who may become aware of the content of this writing has a legal question or requires legal advice, such person should meet with an attorney and receive proper legal guidance after a full disclosure of all facts and concerns.

See further the disclaimer located on the homepage at pelusolaw.com.