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APPELLATE DIVISION'S BROAD INTERPRETATION OF NEW JERSEY CONDOMINIUM ACT'S MANDATORY ADR PROVISION MAY REQUIRE NEW POLICIES AND PROCEDURES

The Appellate Division's broad interpretation of the term "housing-related dispute" for condominium associations and unit owners may signal the need for the associations to enact new policies and procedures to ensure compliance with the mandatory ADR provision of the New Jersey Condominium Act. The relevant portion of the Act, N.J.S.A. 46:8B-14(k), specifically states that "[a]n association shall provide a fair and efficient procedure for the resolution of housing-related disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation."

In Bell Tower Condominium Assoc. v. Haffert, published January 12, 2012, a unit owner objected to a special assessment approved by the condominium association's Board of Trustees. The association filed suit against the unit owner in the New Jersey Superior Court, demanding judgment for the unpaid assessment. The owner filed a counterclaim against the association seeking an order requiring arbitration of the dispute. The lower court granted judgment in the association's favor, specifically rejecting the owner's assertion that the matter should be sent to arbitration.

On appeal, the Court found that the applicability of the Act's mandatory ADR provision was dependent on whether the dispute over the validity of the assessment constituted a "housing-relating dispute." Based on New

Jersey's strong public policy favoring arbitration and the Legislature's failure to impose limitations on an association or unit owner's right to pursue arbitration to resolve "housing-related disputes," the Appellate Division held that the dispute in question was, in fact, housing-related. In reaching this conclusion, the court explained that "the term 'housing-related dispute' is a broad one" which encompasses any dispute that arises from the parties' condominium relationship. Because the Board's imposition of a special assessment clearly implicated the "condominium relationship" between the association and the owner, the owner was entitled to have the dispute arbitrated.

Based on the Court's broad construction of "housing-related dispute" as applied to the Condominium Act's mandatory ADR provision, condominium associations would be well-advised to include within their by-laws a clearly articulated dispute resolution mechanism.

Should you have any questions concerning this case or any other Condominium Law issues, please contact Matt Werbel or any of our other partners.

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