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Buyers Balk, Claiming No Loans

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Sky View Parc in Queens, where some with contracts want out of deals.

In one of the largest cases of buyers remorse in New York, scores of people who agreed to purchase apartments in a new development in Queens filed suit Monday seeking the return of their deposits.

The suit, filed in federal court in Brooklyn, could throw a wrench into the marketing efforts of Sky View Parc, a huge shopping center and

condominium development that is planned to eventually include nearly 1,100 apartments in six towers.

The complex is a few blocks from the heart of the Flushing commercial district. It has been controversial because of its size and the impact it might have on local business and traffic.

When the development was first marketed in 2008, prices ranged from \$385,000 for studios to more than \$1.2 million for three-bedroom units on a high floor. Some prices have been raised slightly and some trimmed slightly since.

The complaint was filed on behalf of 67 would-be buyers in contracts to buy 41 condos. The complaint said that buyers wanted their money back because they were unable to obtain loans after the "collapse of the mortgage market" and were unable to close.

Their lawsuit said that the developers failed to file a disclosure statement. Such a statement is required in large developments under a federal law enacted in 1968 intended to help protect buyers from fraud in new real-estate subdivisions.

Adam Leitman Bailey, a lawyer representing the plaintiffs, declined to comment except to say that his clients "are exercising their rights under the federal law." If a developer fails to provide the proper disclosure, buyers may freely revoke the purchase agreement within two years, the suit said.

The developers, Onex Real Estate Partners and Muss Development, declined to comment on the lawsuit until they had a chance to review it. But they said: "We have met and will continue to meet our contractual obligations to our purchasers.

Similar cases have been filed in a number of high-profile developments in Manhattan, including the Brompton on East 85th Street. But the federal suit against Sky View Parc is far larger than those filed to date in marquee buildings.

In such cases, the plaintiffs often hope to get back their deposits but in other cases, would-be buyers file suit in an effort to push developers to renegotiate lower prices or better terms, lawyers say.

So far Onex and Muss Development have obtained about 160 contracts, most signed soon after the project went on the market in 2008, before the New York real-estate market tumbled. Many buyers at Sky View Parc are from families of Chinese or Korean immigrants who already live in and around Flushing.

In the complaint, **Mr. Bailey** said that after making a 10% deposit, buyers found that mortgage financing was no longer available for new projects like Sky View "despite assurances that the sponsor had lined up preferred lenders to help them."

The project developers said that several financial institutions were "eager to provide financing to our buyers" and that the development was approved for FHA insured mortgage loans.

Sky View Parc is scheduled to eventually include a pool, tennis courts, and putting greens, on top of a three-story 800,000 square foot shopping mall. Target, Best Buy, Old Navy and BJ's Wholesale Club have already opened.

But after getting signed contracts on 130 units by the end of 2008, sales eventually stalled, and Onyx, the equity partner in the project, assumed more operating control in the project from Muss Development, and brought in Related Cos. as a consultant.

The federal law at the center of the suit, the Interstate Land Sales Full Disclosure Act, has been cited by many buyers seeking to get out of contracts. In New York contradictory decisions by trial judges are now on appeal, and the final impact of the law is unclear. This in turn has led to increasing uncertainty by developers and lenders.

Mr. Bailey won a favorable ruling at the 22-story Brompton on behalf of a would-be buyer who wanted out of a \$3.4 million contract. But the sponsors won sweeping victories in cases brought against Fifth on the Park, a large Harlem development, and another in Hunters Point, Queens.

Federal disclosure rules apply to developments with more than 99 units. Many New York developers were unfamiliar with the federal law, at least until the downturn led buyers to try to find new ways to get their deposits back.