Real Estate Matters: Ask the real estate lawyer

by Ilyce_Glink

Q: I own a rental condo and want to transfer it into a limited liability company (LLC). I will be the only member of the LLC. Is this a good idea and will the property be better protected while in the LLC rather than in my name personally?Also, after setting up the LLC, how would I transfer the condo property into the LLC?A: You've asked some good questions. If you own property in your own name and something goes wrong and you are sued, not only is your condo at risk but so are all of your other personal assets.If you put transfer title to the condo into an LLC, and you manage the affairs of the LLC properly, if you get sued, the assets of the LLC will generally be the only ones to be at risk.Once the LLC is set up, it's rather easy to transfer title from your name into the LLC. You or your attorney could draft a deed conveying interest in the condo from you to the LLC. The document would get recorded and you would be done. The property would now be owned by the LLC.While in general the concept of putting the property in LLC is wise, some people forget that there are costs involved in having an LLC own the condo. You may have additional accounting charges, annual filing fees with the state in which the LLC was organized along with fees to create the LLC and transfer the property from you to the LLC.In addition, if you have to refinance your property once it is in the name of an LLC, you may have to finance it as investment property rather than personal property. The fees and interest rate offered on investment loans tend to be higher. All these fees all add up and you have to determine where you are most likely at risk and whether insurance is a better option to protect yourself. If you think that you are protecting yourself from a personal injury issue and you don't have enough insurance, if you are managing the property yourself, a good attorney will not only sue the LLC but will sue you as the manager of the property.You should sit down with an attorney and discuss your options. Look at what it costs to set up the LLC and maintain it on an annual basis. Consider your options for increasing your insurance coverage or getting better and/or different coverage to cover your liability issues.Then decide whether it's worth setting up an LLC. You'll need to make sure that you handle each and every piece of business that comes from the LLC, in the name of the LLC with proper back up documentation.It's easy to set up the LLC, but you also have to have a separate bank account and books for the LLC and you have to make sure you always hold yourself out to represent the LLC and not yourself personally.If you fail to keep the right paperwork, or if you pay LLC bills with a check from your personal checking account, all your hard work could be for nothing and you may get sued personally.(Samuel J. Tamkin is a Chicago-based real estate attorney. Ilyce R. Glink's latest book is "100 Questions Every First-Time Home Buyer Should Ask." If you have questions for them, write: Real Estate Matters Syndicate, PO Box 366, Glencoe, IL 60022 or contact them through Ilyce's website www.thinkglink.com.)Â© 2007 by Ilyce R. Glink and Samuel J. Tamkin. Distributed by Tribune Media Services.