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1031 tax exchange comes with added bonus buyer

A recent purchase of two apartment buildings totaling 22 units for a 1031 exchange resulted in more than a deferral of capital gains taxes for one investor.

The acquisition came with a bonus of over 10,500 square feet of development rights, which made the deal even more attractive, according to Ralph Trionfo, president of Upside Ventures, who represented the buyer in the transaction.

MCI Realty LLC c/o Milton Merl purchased two contiguous five-story walk-up apartment buildings at 242-244 West 61st Street on Manhattan's Upper West Side for \$5,600,000. The acquisition was structured to replace a nearby loft building at 12 West End Avenue that Merl had recently sold. The property and timing conformed to Section 1031 of the Internal Rev-

enue Code. The West End property became part of an assemblage of parcels for a proposed 31-story residential building along West End Avenue between 59th and 60th Streets. Merl, who currently owns other real estate assets in Manhattan, acquired the West 61st Street walkups from Seventh Frogmouth Corp. c/o Arthur Cohen.

The West 61st Street transaction included over 10,500 square feet of surplus development rights, which were sold to Ginsburg Developers for \$90 per square foot to enhance the construction of a mixed-use high-rise tower adjacent to the walk-ups. Local zoning laws permit the transfer of development rights only to adjacent properties, said Trionfo.

"Ginsburg was seeking to add square footage to the

project," said Trionfo. "The taller the building, the more views, which ultimately means more value."

The final purchase price for the walkups was reduced as the surplus development rights were already in play. "At the end of the day, the buyer acquired the property for nine times the gross income, which is a bargain for that location," said Trionfo.

"The area is enjoying a renaissance with several new developments planned and underway," said Trionfo. "The landscape of the whole West Side is changing. For example, the New York Jets desperately want to call it home."

When Merl first approached Trionfo to identify a replacement asset for the West End sale, Trionfo recommended a corner mixed-use apartment building in the East Village that looked promising. After weeks of negotiations, the deal fell through.

"We had only 18 days left to find a replacement property when the West 61st Street opportunity developed," said Trionfo. "We have a strong network and extensive database of registered and active investors, so I was able to source another option that turned out to be a better alternative all the way around."

The West 61st Street properties are in a prime location near the new Time Warner complex and Central Park. There are 22 apartments, 18 of which are free-market rentals. They include two studios, three one-bedroom duplexes, 10 two-bedrooms and seven three-bedrooms, most with wood-burning fireplaces.

Trionfo negotiated the transaction, which included the resale of the development rights, a non-refundable contract deposit, seller financing, and assumption of the existing debt.

"I had a motivated buyer with a short time frame and specific requirements," said Trionfo. "The sale closed within 60 days with no contingencies or due diligence."