

actions, readers can conclude either that the failure to bring a fraud action itself may be in the nature of an accommodation, or that fraud cases are settled or arbitrated rather than tried.

Overstreet and Rubin apply Monte Cristo sampling (page 393) and multifaceted sensitivity analysis (page 386) to study the extent to which Congress has been effective in encouraging historic rehabilitation as from session to session they vary the applicable provisions of the income tax code. (page 386) The authors conclude that favorable tax provisions can be overshadowed by a pessimistic economic outlook and that relative demand for rehabilitated structures can vary for other reasons as well.

William Kinnard presents a well-researched study of the erosion of property rights by the California Mobile Home Residency Law (MHRL), which in combination with rent control gives the mobile home owners an interest in their landlords' pads. MHRL, which applies to each mobile home, creates an indefinite tenancy in the pad, which transfers from the real estate owner to the tenant "both the right of [use and] occupancy and a substantial portion of the right of disposition." (pages 347-348) Kinnard's analysis of 570 coach sales researched in 12 mobile home parks in southern California (three rent controlled, nine not rent controlled) causes him to conclude that the operation of MHRL in conjunction with rent control ordinances (when the latter apply) results in higher prices paid for tenancies than is otherwise the case or

other than can be imputed to tenant rights per se. The legal argument is that "MHRL in conjunction with rent [control] produces [a taking, although both have] been held separately to be constitutional exercises of police power by the California Supreme Court." (page 348) Transferable indefinite tenancy plus rent control have the effect of shifting from landlord to tenant property rights that the tenant can "monetize." (pages 349 and 370) According to California legal authorities, this, if true, constitutes takings for which just compensation must be paid, and Kinnard has demonstrated the value loss. One senses that the last legal chapter to this story may not have been written; surely to increase coach values was not the legislative intent. A local option requiring communities to have either rent stabilization or MHRL could resolve future concerns but would not help retrospectively. Kinnard assures us that the differential between the coach prices is "nontrivial." The outcome will affect 106,000 rent-controlled mobile homes.

It is said that the mere existence of a problem is no proof of the existence of a solution. However, this substantial book, sponsored by ARES, causes one to believe that its membership consists of those who can reason solutions to real estate problems and, more importantly, are willing to do so and to take the time to let us in on it in an entertaining manner. Keep your fingers crossed; the book is said to be the first volume of a proposed series.

*(Reviewed by Anthony Reynolds, MAI, Mitten & Reynolds, Inc., Washington, D.C.)*

**The Law of Real Estate Financing**, Rev. Ed., by Michael T. Madison and Jeffrey R. Dwyer. Published by Warren, Gorham and Lamont, Boston, 1994, 1,264 pages, \$160.00, hardcover.

Legal aspects of real estate financing and the interrelationship among real estate finance, valuation, and law are presented in this text. Detailed presentation of real estate finance law is coupled with practical application of theory and planning recommendations. Given the authors' objective of merging a scholarly work on a complex subject with practical application of law and finance through the real estate financing cycle, there is significant breadth and depth of coverage.

Through a series of 13 chapters the authors identify such subjects as selection of ownership entities (with attention given to the recent popularity of limited liability corporations and partnerships), permanent financing, construction financing, subdivision financing, and nearly all other traditional and nontraditional financing vehicles. Of significant note is that an entire chapter is devoted to a thorough discussion of securitization of commercial real estate. As the secondary mortgage mar-

ket for commercial real estate matures, this sector will continue to play a significant role in real estate finance. The authors as well as many appraisers and lenders feel that equity and debt securitization will revolutionize commercial real estate finance and investment. The orientation of the text is toward income property finance; coverage of single-family and subsidized multifamily residential finance is given little coverage.

The subject matter, while obviously founded in real estate law, covers a broad range of economic issues and relates real estate finance law to these matters in an informative and useful manner. The authors assume a base level of education on matters of real estate, finance, and investment and thus very little basic information is provided. The book serves as a reference source of real estate information and provides depth of coverage sufficient to enable work with sophisticated concepts and issues of contemporary finance.

Real estate tax law and the implications of various ownership entities and investment decisions are thoroughly related to current tax rules. Practitioners involved in real estate advisory and counseling services should find this reference source of great assistance (cumulative supplements and supplement disks are issued periodically). The integration of global capital markets is relevant to chapter 2, which deals exclusively with foreign investment in U.S. real estate.

Appraisers working extensively with lending institutions will find the financing topics such as tripartite agreements (or buy-sell agreements), loan participations, and bankruptcy issues of use both as reference sources and as a framework for understanding the appraisers' substantial role in these issues. Condominium and cooperative financing is covered in chapter 10, in which legal structures and the distinction between subdivision and

condominium financing are discussed. There also is a detailed presentation of construction and permanent financing matters.

As an example of the depth of contemporary real estate issues, the authors discuss the rise in popularity and above-average returns of equity real estate investment trusts (REITs). In addition, however, they cover some of the more interesting aspects of this sector by discussing FREITs, which combine the liquidity advantage of public stock and the pass-through features of limited partnerships by requiring the liquidation of the REIT's assets. The authors contend that the major advantage of a FREIT is that by limiting the life of the equity REIT, the trust manager can concentrate on selecting quality assets with a longer-term perspective than the "perpetual" or open-end equity REIT, which may be compelled to invest in riskier (but higher-yielding) assets to support the trust's share prices. In addition, the authors cover advantages and disadvantages of another nuance of the REIT industry, the UPREIT. The UPREIT invests, together with other non-REIT investors, in a partnership (the UP) that in turn owns a portfolio of partnership interests in major real estate projects. The advantages over traditional REITs are described, including, among others, allowing the public greater access to institutional grade real estate. The authors contend that these vehicles can lead to much greater securitization than has yet occurred.

Professional appraisers and advisors should find this treatise on the subject of real estate finance law both comprehensive and sufficient in detail to provide an excellent reference source. In addition, those practitioners interested in a thorough discussion of real estate finance and investment will find this work an interesting (and dense) read.

*(Reviewed by Daniel L. Willison, SRA, Vice President, Signet Bank, Vienna, Virginia)*