

WALKER WILCOX WINS DISMISSAL OF PUTATIVE CLASS ACTION AGAINST PROPERTY MANAGEMENT COMPANY

On April 24, 2018, Walker Wilcox attorneys Ed Gibbons, Arthur McColgan, and Scott Stirling successfully obtained dismissal of a putative class action filed against Walker Wilcox client Sudler and Company, in the District Court for the Northern District of Illinois. *Horist v. Sudler and Company*, Case No. 17 C 8113.

Plaintiffs brought suit under the Illinois Condominium Property Act (“Condo Act”) and the Illinois Consumer Fraud and Deceptive Practices Act (“ICFA”), and asserted common law causes of action, alleging that Sudler – a property management company – and co-defendant, HomeWise, overcharged for documentation needed in connection with selling one’s condo. Specifically, they claimed that Defendants turned the process of selling one’s condo into a “profit center” by causing the associations managed by Sudler to stop providing disclosure documents, which effectively forced sellers to utilize HomeWise, which in turn overcharged for providing the documents. Sudler and HomeWise both filed motions to dismiss.

Judge Robert Gettleman agreed with Sudler that Plaintiffs’ complaint did not contain any factual allegations that the Defendants somehow caused the associations to stop providing disclosure documents. Because of these missing facts, Judge Gettleman found that Plaintiffs did not allege an unfair practice or a violation of the ICFA.

Furthermore, Judge Gettleman held that the Condo Act does not provide a private right of action for its enforcement. In order to state a claim for violations under the Condo Act, Plaintiffs needed to establish an implied right of action in their favor, which they could not, because the Act is meant to protect buyers and associations, not sellers. Accordingly, Judge Gettleman granted the Defendants’ motions to dismiss.