

October 11, 2008

## Lawsuit confronts Ilikai principals

*By Andrew Gomes  
Advertiser Staff Writer*

Nearly 40 investors who bought units at The Ilikai have sued a California-based real estate sales seminar operator and local developer Brian Anderson over failed plans to renovate the Waikiki hotel-condominium.

The suit was filed yesterday in U.S. District Court in Los Angeles, and alleges that the plaintiffs were enticed to buy Ilikai units with sales pitches that presented potential financial returns for owning a piece of the Ilikai, in violation of securities laws governing condotels.

The lawsuit is the latest twist of trouble for the embattled project for Anderson, who is trying to avoid losing the property to a foreclosure suit filed by lender iStar Financial in August, and has fought longtime Ilikai condo owners over changes to the property including a planned \$40 million renovation.

Anderson didn't return a call or e-mail seeking comment on the lawsuit. The seminar operator, Marshall Reddick Real Estate Network, was closed late yesterday afternoon and could not be reached.

Robertson & Vick LLP, a California law firm that has represented high-profile defendants including Erin Brockovich in a contaminated drinking water case and Ed McMahon in a household mold case, filed the suit involving the iconic 44-year-old hotel featured in the opening credit sequence of the hit TV series "Hawaii Five-O."

Anderson's company Anekona Development bought much of the Ilikai — including its commercial space, 343 units in the 1,009-unit main tower and the 360-unit Yacht Harbor Tower annex — in July 2006 for \$218 million. Anderson sold off the Yacht Harbor Tower to another developer, and proceeded with plans to renovate and sell his remaining 343 units to individual buyers and upgrade the main Ilikai tower into a hip, upscale hotel.

Anderson has sold many of the units, but has struggled to sell enough to pay off mortgages used to finance his purchase and planned renovation.

According to the Robertson & Vick suit, Anderson engaged Marshall Reddick Real Estate of Irvine, Calif., to sell about 100 units through its educational and purchasing system.

The suit said plaintiffs bought 59 Ilikai units between November 2006 and August 2007 for between \$400,000 and \$600,000 through Reddick events in California.

The buyers claim that Anekona and Reddick provided historical hotel revenue figures and future room revenue projections as part of the sales pitch.

Condotel attorneys say such a practice, in general, is considered to run afoul of rules for selling condotel units without registering them with state regulators as a security.

Most condotel projects sold in Hawai'i in the past few years have been careful not to make any representations regarding room revenue or investment returns to avoid having the property treated as a security instead of more loosely regulated real estate.

The suit said buyer expectations of rental income were raised by a \$40 million renovation plan for common areas.

Anderson last year announced his intention to enhance the renovation to \$60 million.

But in March the developer begrudgingly withdrew those plans after failing to win the support of enough unit owners within the complex, including many longtime owners who are upset over changes Anderson had made to parking, storage, restaurants, and sealing off the Yacht Harbor Tower that included the Ilikai's main pool.

The lawsuit added that Reddick agents didn't disclose to buyers the sale of the Yacht Harbor Tower that removed the pool, ballrooms and other amenities from the Ilikai.

Robertson & Vick in a press release said that occupancy at the Ilikai has declined from 85 percent to under 25 percent since units were sold to plaintiffs.

The suit is seeking \$10 million in damages.

---