

LOS ANGELES COUNTY PARTIALLY BUILT HOMEBUILDING PROJECT

A mid-sized Orange County-based homebuilder received a mezzanine loan from a lender for construction of the remaining 26 homes of a larger project in Los Angeles County. At the time the loan was made, nearly all of the homes were sold and under construction. After four homes were completed and closed, the construction on the project slowed dramatically. The mezzanine lender hired Capstone to asset manage the project. Capstone quickly determined that the developer had overstated the project's progress and was drawing advances from the senior loan in excess of costs. In addition, the homebuilder had taken escrow and option deposits from homebuyers and used those funds for other uses.

During this engagement, Capstone designed and implemented a full-service plan that included the following:

- Legal entity structuring to accept a deed-in-lieu while retaining foreclosure rights for maximum legal protection and flexibility.
- Negotiated a loan modification with the existing senior lender on the project to keep the senior loan out of default.
- Negotiated a settlement with the homebuilder whereby they forfeited their interests in two other projects they had with mezzanine lender.
- Managed the trustee sales process, including setting credit bid strategy.
- Foreclosed out all mechanic liens and purchase contracts.
- After failed negotiations, managed litigation with the bonding company due to the bonding company's default under their obligation to protect the homebuyers' deposits. Negotiated a settlement payment for substantially a full claim from the bonding company.

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- Bid out the home construction costs and hired subcontractors to finish the homes.
- Obtained certificate of occupancies for the remaining houses.
- Held numerous meetings with the prior prospective homebuyers allowing Capstone the ability to keep the project out of protracted litigation while selling the remaining homes.
- Placed adequate and appropriate insurance.
- Worked with legal counsel to draft appropriate disclosure documents.
- Selected and hired resale agent to handle sales of standing inventory.
- Sold all homes after determining revised prices for the remaining homes.
- Capstone's efforts generated sales proceeds that were substantially in excess of those needed to repay both the senior and mezzanine lender.