

由于公共租赁住房或廉租房主要面向低收入困难家庭，因此，当承租人的收入状况或者住房状况发生变化，承租人就失去了承租的资格，租赁合同的基础就不存在，出租人自然也可以解除合同。

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## Key Legal Issues Concerning Public Rental Housing

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**Abstract:** In China, public rental housing as well as low-rent housing is public housing mainly for the middle and low income families. At present, it is necessary in China to develop public rental housing as many people can't afford the housing in market. For the purpose of public housing, the law should limit the selling of public rental housing and low-rent housing. When the government sells the public rental housing and low-rent housing to its people, these housing should not be the joint property of government and buyers. The buyers of these housing should be the sole owners of the housing, and the law should limit the transactions of these housing. Public rental housing is a kind of rental housing, but it is different from the rent housing in the market, accordingly, the law should have specific provisions for the lease contracts.

**Key words:** public rental housing; low-rent housing; joint ownership; lease contracts

## 观点选萃

# 对“首先满足业主的需要”的理解与适用

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华中师范大学政法学院法律系民商法学专业 2009 级硕士研究生董春凯认为：

《物权法》第 74 条第 1 款关于车位、车库的归属及管理使用，规定“应当首先满足业主的需要”，这一规定主要是针对现实生活中有的开发商将车位、车库高价出售给小区以外的人停放的现象而对车位、车库的归属和流转做出的必要限制。

“首先满足业主的需要”，是法律基于利益的考量而采取的一种强制性措施，严格要求开发商（包括包销期满按照包销合同约定的包销价格购买尚未销售的物业后，以自己名义对外销售的包销人）在初次出售房产的期限内按照车位、车库的配置比例首先满足业主的要求。业主包括已经依法取得小区房屋所有权的业主和事实取得房屋所有权（合法占有与建设单位交易的房产后还未登记）的业主，不包括仅购买小区车位、车库的第三人。在初次出售房产期限内开发商只要在合理的期限内履行了通知和预留合理的答复期限后即可视为已经符合“首先满足业主的需要”，开发商可以自由处分其权利，不可让开发商承担无期限的“首先满足业主的需要”的义务，更不可直接或者变相限制甚至否定开发商可以自由出售车位、车库的权利。另外，对“首先满足业主的需要”的主体应该仅仅限制为开发商（建设单位），业主取得车库所有权（承租权）后，在转让（转租）时应当不受第 74 条第 1 款的限制，享有依法自由处分已经合法取得的车位、车库的权利。