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COVER STORY

Condo conversion blues

State law offers little help for owners associations facing costly repairs

by Paula Insua-Debout

When she bought a unit after a condo conversion at the Cariblue Condominium in Surfside, Hume thought the building looked great. But soon after she bought the unit, upper-floor units started dropping, and her unit began showing signs of wear and tear.

The freshly painted walls and the new windows gave no hint of the mechanical problems brewing beneath the cosmetic improvements made to the building. The building was alreadyodable to convey to new owners, but some owners were skeptical.

"It was like an old building with a lot of paint up and a lot of problems," Hume said, referring to the 40-year-old building.

When Reinaldo Trujillo paid $400,000 for his condo at Grandview Palace in North Bay Village, he never imagined the new building would soon cause problems affecting homeowners in the six-year-old building.

"The building is not doing any renovation and spending the least money," Trujillo said.

Home and Trujillo's stories represent the dark side of the stilled condo conversion market where developers of all types are gobbling up apartment buildings and quickly selling them in pieces as condos.

In Miami-Dade County, 629 apartments were converted last year, up from 930 in 1999, according to McCabe Research & Consulting. In Broward, 491 were converted, up from 429 in 1999. In Palm Beach County, 360 were converted, up from 99 in 1999.

Converted units are attractive to some buyers because they're less expensive than new construction and sometimes sell for more.

But many condo associations face hidden structural problems, discrepancies in developer-established reserves, and inadequate governing documents governing the condominium.

And state law offers little protection for consumers and requires limited accountability of developers. New owners can negotiate with the developer to make needed repairs, but if informal talks fail, associations may be stuck debating whether to pay money into repairs or into a lawsuit.

And heading to court offers no guarantee of either success or satisfaction.

Condo owners face the accounting and property maintenance until buyers close on 90 percent of the units. In that time, developers must transfer those responsibilities to a new, elected board of directors.

The turnover process takes about 30 days. That's when new condo boards are responsible for a unit.

Expensive surprises

Some developers seeking to maximize profits invest mostly in upgrading the look of the building and leave away from electrical, mechanical or plumbing systems in chronic need of repair.

That leaves some of the most challenging repairs for new owners to deal with.

"Conversion is the wave of the future," said state Rep. Julio Robles, a Miami Republican who advocates stricter regulations. "But we don't have enough laws or regulations to protect condo buyers from condo converters."

Some buyers are taking their complaints up to court, and some are not required by state law to bring older buildings up to code or fix problems caused by age. Developers are only required to correct code violations, said attorney Harold L. Lewis, a partner in the Miami law firm protestors Lewis.

Disputes between developers and buyers are fueled in part by a gap in laws governing accountability and enforcement when things go wrong.

Robles said, "Condo owners should be made accountable for the safety of the unit they own."
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But Louis said developers are not required to deliver buildings in impeccable condition. As the head of his firm’s real estate department, Louis helps developers navigate the construction process.

"Condo conversion is not about the condition of the building," Louis said. "It is not about making improvements. It is about disclosure."

State law requires converters to hire a licensed architect or engineer and write a so-called conversion inspection report to show buyers the age, estimated life expectancy, current replacement cost and the functional assessment of the roof, structure, fire sprinkler, fire protection systems, elevators, heating and cooling systems, swimming pools, seawalls, garages, parking areas and drainage systems.

Developers must provide the inspection report together with the condo documents to the state to be able to create a condominium.

The report is more thorough than a simple report, added Louis.

Greenpoint has helped converters for several years, and its office’s workload has more than tripled in the last couple of years. It now handles about 100 conversions a month, up from two a month in 2006.

Costs excluded

Critics contend the information state law requires developers to provide in the inspection report is inadequate. While it provides expected life expectancy for major building components, it excludes maintenance costs until those systems need replacing.

After reading the reports for their buildings, buyers like Raul Trujillo believe they were misled about the building conditions and now face a bill of dollars of dollars in repairs.

"If a developer represents that something has been fixed, it has to be fixed well," Trujillo said. "Or if they represent the life expectancy of something is for a certain amount of years, they have to be right."

Hanse, president of the Carroll’s board of directors, said her building’s conversion impacted the heating, ventilation and air-conditioning systems in working condition.

"We became the president in January and went to the bank, and they issued a letter, a note that the building was in bad condition," she said. "Hanse, who paid $350,000 for 1,200 square feet in a condominium, said."

American Invesco, which handles all of the nation’s leading condo developer, did the conversion of the building.

"The building was in worse than bad condition," he said. "It had to be repaired."

"What do you get from the developer? Not very much," said condo attorney Jason De La Torre of Siegel, Friedman, Loper & Escott. "We use the report to establish a reserve fund for repairs and they owe us money." He added that the condo has no reserve fund for repairs.

"We may have to find a lawsuit," Hanse said.

Lawyer up

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U.S. Immigration Judge James Trease-Harvey and his wife are at the Miami Beach condo where they own two units. The condo association, he says, is "leading (owner) astray."

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Trujillo also owns two units at 750 East 23rd Street. The condo association, he says, is "leading (owner) astray."

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Hollisback Booth lawyers Eric Glaze, MS, and Andrew C. Denzler, who note that condominiums can create a limited liability corporation for such projects, leaving the corporation with no assets to show in court.

"They can tell you whatever you want to hear to sell the property, if it is not in the condo docs, you can't enforce it," Glaze said. "If they say they will refurbish the pool, make sure it is in the condo docs."

'Big-time abuses'

But understanding condo docs is no simple task, said U.S. Immigration Judge Lillian Torrealba-Ray, who owns two units at Miami Beach's Crescent Heights Condominium.

"Most people don't read the condo docs," she said. "They are like a phone book and hard to read. I am a judge and still could not understand the condo docs."

The discount building operation and the condo docs are both challenges. Miami-based Crescent Heights converted the property to condominium and sold asset of the common areas to a hotel operator.

More than a third of the owners have signed agreements allowing them to be named as hotel rooms. Torrealba-Ray bought her unit in 2013 because her 7-year-old son loves the beach and she is not part of the voting program.

"As president of the Crescent condominium association, Torrealba-Ray said "we are fighting on behalf of those who can't afford the hotel operator's services, especially those who can't afford to book the hotel and keep the revenue."

"The hotel is making us money," she said. "We pay $100 a night for the operation of the hotel, which has the revenue of the hotel, and that is more than we had.""The Crescent beach hotel is a problem from Crescent Heights, which

Drafted the condo docs.

A different entity owns the Crescent's laundry, but the association pays for the waste and the electricity without sharing in the revenues. Torrealba-Ray said. The garage, lobby, elevators and other public areas are owned by the hotel but managed by the association.

"This association is a shell with a laundry company," she said. "The hotel gets to charge its customers for the service and keep the revenues. And we get nothing. This is a big-time abuse."

Torrealba-Ray bought into Crescenta few months after the association settled a lawsuit with Crescent Heights in 2013. The board claimed the association had done a poor job building beach cabanas, which were then torn down by the city.

"We settled for less than it cost to fix them because it was going to be a costly battle," she said. "As more controversies arise, people will lose confidence. And more problems will emerge unless condos have become more restrictive and enforceable, and state lawmakers have tackled the issue."

"Concessions are happening at a fast pace, and we are not doing enough to keep up," she said.

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