



Condominium Law Q&A

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Question – My wife and I purchased a condominium two years ago in a complex with just one building that was built in 1989. The original plans for this complex called for a total of four buildings to be built, however, the original developer went bankrupt and never finished the other three buildings. Approximately one year ago, another group of developers came forward and purchased the land where the other three buildings were to be built and have commenced construction using the original designs. Some questions have been raised since construction began. The first question that has arisen is how to handle the condominium association. We have been told that units built ten years after the original units would be required to form another separate condominium association. The second question is how the new units would be merged into the existing condominium association, especially with respect to condominium fees, if a separate association is not formed. The developers are telling us that only when units are sold would they be required to start paying association fees. There are currently 18 units out of 57 that remain unsold. The current owners of the original building believe that when the new units are completed the developers should be required to start paying association fees regardless if the units are sold. Can you comment on both questions regarding these issues? S.M., Jacksonville

Answer – In order to answer the questions you present, one needs clarification as to how the initial developer structured the community. You state that the original plans called for a four building complex.

What isn't stated is whether the condominium was a "phase" development that allowed for the expansion of the initial building as the additional building(s) was completed. That can be discerned from the initial declaration of condominium which, if the proposed development is a phase condominium, must expressly set forth the impact on the percentage of owning the common elements and sharing the common expenses, as each additional phase is added. One difficulty with a phase condominium is that all phases must be added within 7 years of the date the initial declaration is recorded; otherwise, unit owner approval is required to add new buildings to existing phases. Another option which the developer could have elected is what is referred to as a "multi-condominium association." In the case of a phase condominium, when all the phases are built and added together, there exists a single condominium and a single association. In the case of a multi-condominium association, each separate building is its own condominium, even though all the buildings are operated by a single association. In promulgating the budget and charging the common expenses, a multi-condominium association will have a budget for each condominium plus a budget to cover shared expenses for the association property, if any, and other recreational amenities. Not to confuse the already complex situation, if the initial developer declared the entirety of the underlying fee to a condominium of four buildings at the time it recorded the initial declaration, three of the four buildings would be deemed to be "phantom" units, and the developer would be responsible for sharing

in the common expenses from inception. So the bottom line is that someone experienced in these matters needs to read your condominium documents, determine which of the aforesaid concepts exists, and determine when the obligation to contribute for the new units begins.

Question – We live in a 120 unit condominium in Daytona Beach, Florida. The building has 20 units on each corner with 6 sliding glass doors, 20 units on the south side and 20 units on the north side with four sliding glass doors. Each door has a glass panel on each side. Each side of the building has 8 sliding glass doors. Our question is, since the glass panels on each side of the door are part of the exterior wall, and the sliding glass door is also part of the exterior wall, who is responsible for the rollers the doors slide on? It is the board of directors' opinion that the rollers belong to the unit owners and some owners are saying the association is responsible. Could you give us an opinion, so this can be settled?
J.M., Daytona Beach

Answer – I would love to be able to give you the

definitive answer to resolve the dispute. Unfortunately, the Condominium Act is silent on the question of maintenance responsibility for anything other than the common elements and association property. The answer lies within the condominium documents. Here is where and how to find the answer. First, turn to the section of the declaration which defines the unit boundaries. If you are lucky, the documents were drafted by a skilled practitioner, someone who clearly delineated the unit boundaries, including whether or not the unit windows, frames, and sliding glass doors and tracks, are part of the unit, the common elements, or the limited common elements. Next, go to the section of the declaration which delineates maintenance responsibility between the unit owners and the association. Read together, the two aforesaid sections will answer 90% of the questions. As to the remaining 10%, it is a crap shoot. Keep in mind that ambiguities are construed against the drafter of the documents, or the one seeking to enforce the provisions.

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