

Buying A Condominium



THE FLORIDA BAR

This pamphlet published as a public service
for consumers by The Florida Bar

WHAT IS A CONDOMINIUM?

A condominium is a planned development that has been created pursuant to Chapter 718 of the Florida Statutes (The Condominium Act) and may be either residential or commercial in nature. It is characterized by the individual ownership of living units (or offices) and the joint (as a group) ownership of the common elements of the project. For more information about condominiums or the laws pertaining to them, you can also contact the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 850/488-0725 or go to its website, www.state.fl.us/dpbr/html/lsc/co_page.html

WHAT IS COMMON OWNERSHIP?

The land and all common facilities in the condominium such as swimming pools, tennis courts, lobbies, meeting rooms, elevators, etc., and the walls, roofs, plumbing and wiring are usually owned and operated by the owners through their elected representatives (usually called directors).

This joint ownership and operation means that no individual owner has control over the management and decision-making process. Owners must cooperate with one another as a group (called the condominium association). All owners must abide by the rules and regulations required when so many people are living so closely together. The association is like a mini-government with the condominium documents serving as its constitution.

WHAT DOCUMENTS DO I RECEIVE WHEN BUYING A CONDOMINIUM FROM A DEVELOPER?

You will be given a large number of highly technical documents that may seem discouraging to read, much less understand. They form the framework within which you will live each day. It is very important to know what they say. It would be a

shock for a pet owner to find that he or she would not be permitted to have their pet living in the unit. At a minimum, you should read the frequently asked questions-and-answers sheet and any references it contains.

WHAT DO I OWN OUTRIGHT?

You will own the area formed by the walls, floor and ceiling of your unit and everything inside including interior partitions, cabinets, appliances and fixtures. The structural parts of the building are owned in common like the land.

DO I NEED A LAWYER FOR MY PURCHASE? WHY?

Having a lawyer from the very beginning is most important. If you are purchasing a condominium from a developer, you have 15 days to rescind the contract for the purchase. Consult your attorney well before this period expires. If you plan to purchase from a private owner, there is a three-day rescission period (excluding Saturdays, Sundays and Legal Holidays).

Consult your attorney before signing the purchase contract. Your lawyer will not only make sure you are getting what you expect, but will alert you to any hidden pitfalls in the condominium documents. One further protection is that your lawyer will be certain that you will receive a clear title to the unit.

ARE TAXES AND INSURANCE HANDLED DIFFERENTLY THAN WITH A HOUSE?

Taxes, no. Insurance, yes. You will receive a tax bill each November just like you would with a house. It includes the value of your unit and undivided share of the land and common facilities. It will be your responsibility to obtain contents and personal liability insurance for your unit.

CAN I SELL OR RENT MY CONDOMINIUM?

You may sell your condominium, but the Directors of the Association must give advance approval to the purchaser. Most condominiums restrict or control leasing and it is very important that you make yourself aware of these policies before buying if you are purchasing as an investment.

WHAT ARE THE STEPS IN PURCHASING A CONDOMINIUM FROM A DEVELOPER?

The following are steps that are applicable only when purchasing a condominium from a developer. If you are purchasing a condominium from a homeowner, your attorney should review or prepare the sales contract before you sign it.

The basic steps are as follows:

1. The sales person will ask you to sign a purchase contract, give a downpayment (usually 10 percent of the purchase price), and give you a set of documents. Read the documents right away or take them to a lawyer and have them explained to you. The contract will set a closing date.
2. You are responsible for arranging financing. In order to protect your deposit, the contract must be conditioned on your mortgage if you want one. The lender must approve your credit and the condominium documents.
3. At the closing, you will sign the legal documents on the unit purchase and also on your mortgage loan. This means signing all the papers and receiving a deed, a closing statement and usually a policy of title insurance stating that you are receiving clear and unencumbered title to your unit.
4. If you close within 15 days of signing the contract, you will have waived your statutory rights to rescind the contract.

INFORMATIONAL NOTE TO PURCHASERS

Almost all residential condominiums regulate pets, children, re-sale and leasing, and other matters of concern to the owner of a condominium apartment.

Specific information is contained in the Declaration of Condominium and its attachments.

Before the expiration of the 15th day, or the three-day period allowed by law to cancel the purchase contract after you have received all of the condominium documents, you should read them carefully to determine that you will be comfortable with your rights and obligations as an owner.

Some of the things you should look for are:

1. The monthly or quarterly assessment you must pay (recognizing that it may increase in the future).
2. Restrictions on your right to sell, lease, mortgage or devise your apartment.
3. Restrictions on the age of children who may use the pool, beach or other facilities.
4. Restrictions on pets.
5. Restrictions on parking any vehicles or boats, other than regular passenger automobiles.
6. Restrictions on types of floor-covering materials, drapes or window hangings, screening or glassing-in open balconies, etc.
7. Your obligations as to maintenance of windows, screens, air conditioners, plumbing, etc.
8. Whether or not there are mandatory club memberships or recreation facility leases in connection with the condominium.
9. Limitations on use of recreational facilities, playing stereo units and musical instruments at night.

FINDING A LAWYER

If you need a lawyer and do not know how to find one, many areas in Florida have local lawyer referral services listed under “attorney” in the yellow pages of the telephone book. This service will give you an appointment with a lawyer for a low fee.

If there is no lawyer referral service in your city, the statewide Florida Bar service can locate a lawyer for you. You may call this service, toll-free, at 1-800-342-8011. The statewide service, which operates only in cities where there is no local program, will refer you to a lawyer in your area for a fee of \$15 for an initial one-half hour consultation.

The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

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Rev. 10/99

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