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ANewFocus on Due Diligence

JUMBO JUNGLE | ROBYN A. FRIEDMAN

Buyers must research whether their new apartment, and its condo association, are sound

The collapse of the Champlain Towers South condominium in Surfside, Fla., shows how crucial it is for buyers to not only verify the financial soundness of their future condo association, but the soundness of the building as well. "I've worked with condo buyers who are waiving inspections and review of the association documents," said Donna Deaton, managing vice president of RE/MAX Victory + Affiliates in Cincinnati. "That makes me cringe because they're not seeing the whole picture."

Ms. Deaton recommends to all her condo-buying clients that they get an inspection of their unit and review relevant association documents—not just the association bylaws. Buyers shouldn't assume that their real-estate agent is doing this on their behalf, she said. *

"Gather as much information as possible about the building and the particular apartment you're purchasing before you move forward," said real-estate attorney Ingrid C. Manevitz, a partner with Seyfarth Shaw in New York City. "Otherwise, you could end up purchasing a lemon of an apartment or inherit issues that could have been avoided had you gone through due diligence."

Although the exact steps a buyer should take vary by state, and in some cases county, experts suggest that buyers perform the following actions before closing.

Review several years worth of condominium or co-op board and annual meeting minutes. Ms.

Manevitz said the minutes could potentially include notes on board discussions about special assessments and offer clues to potential problems in the unit you're buying and in the building itself.

Scrutinize the financial statements of the association. "The most important thing to look at is how much money has been set aside in reserves for repairs of major components of the building," said Mark Grant, a real-estate attorney with Greenspoon Marder in Fort Lauderdale.

"If the reserves aren't sufficient, owners could be hit with a special assessment," Mr. Grant said.

Despite needing about \$15 million in repairs to the building, the Champlain Towers South condo association had \$700,000 in reserves, according to an April letter sent by the association president to residents, as reported by The Wall Street Journal.

Depending on location, association records might also contain inspection reports. For instance, Mr. Grant said that some counties in Florida require structural inspections to be conducted as part of a 40-year recertification requirement for condominiums, and those reports would be held by the condo association. Buyers should consider making it a condition of the purchase contract that they be allowed to review such reports before purchase.

Mr. Grant said that in Florida, when control over a condominium is transferred from the developer to unit owners, the newly elected condo board will often have an engineer perform an inspection to determine whether there are any construction defects for which the association wants to hold the developer responsible. However, if a condominium isn't new but isn't near its 40-year recertification, there may be no recent structural reports

for a buyer to review. In this case, speak with current residents of the building to learn about any issues that owners have discussed.

Review public records. Start with a Google search to see if there are any media reports of problems with the building. In many jurisdictions, court records are available online, so you can check to see if any construction-defect litigation is pending by searching for lawsuits commenced by the condominium association. Some cities maintain online databases that allow buyers to check for things such as building-code violations, enforcement actions and any open alteration applications for the building.

Review the association's insurance.

Buyers can learn what type of insurance they'll need by reviewing the association bylaws.

"Some associations require that the unit owner insure everything from the sheetrock in," said Spencer Houldin, president of Ericson Insurance Services in Washington, Conn. "Other associations will cover anything there when the building was built, so any improvements after that are the owner's responsibility."

Buyers or their insurance agent should also check the building's coverage to make sure the policy limits are sufficient to rebuild.

"The last thing you'd want is for a condominium worth \$6 million to only be covered for \$4 million, and then everyone gets assessed," Mr. Houldin said.

Make sure you also have sufficient liability coverage and alternative-living coverage, which pays for living expenses if you have to abandon your home due to a covered loss. Even a total casualty loss doesn't relieve a unit owner of the obligation to make mortgage payments.



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