

LEGAL



What is a Condominium?

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What is a condominium? If you are reading this article, you own one in Century Village and, whether you live in the unit or just rent it out (if your building permits rentals) it is important to understand the concepts which follow.

Condominiums did not exist in the State of Florida prior to 1963. Once the law was created – originally as Chapter 711, Florida Statutes, which subsequently became Chapter 718, Florida Statutes -- a person could own the “air rights” in a unit within a building which did not touch the ground directly. That is why you may often hear people state that a condominium is a creature of statute.

Who owns the Condominium building and grounds? All unit owners own the building and grounds outside of their unit in their proportionate shares as provided in the Declaration of Condominium. It is not owned by the Association. It is only operated and maintained by the Association.

What are the components of a Condominium? There are four basic components: 1) Unit; 2) Com-

mon Elements; 3) Limited Common Elements, and 4) Association property. The Unit is defined as the portion of the condominium that is subject to exclusive ownership. It is usually a section of air space outlined in the Declaration. The area outside of the unit’s boundaries are the common elements. Limited common elements are a subset of the common elements which are specifically designated as such in the Declaration and are for the exclusive use of one or more unit owners. Association property is any property titled in the Association’s name (instead of being a common element).

Why do we care about any of the foregoing? It is important to understand the foregoing designations when there are maintenance issues. The unit owner generally maintains and repairs his or her unit, so it is important to understand those boundaries. Section 718.113, Florida Statutes provides that “maintenance of the common elements is the responsibility of the association.” The same section of the statute provides that the maintenance of the limited common elements is the obligation of either the Association or the Unit owner depending on what the Declaration provides. Therefore, when you contact your attorney inquiring about who maintains something, the designation becomes

crucial to the analysis.

Can I do whatever I want in my unit? No, you cannot. You accept the terms of the Declaration of Condominium, the Articles of Incorporation, By-laws and rules and regulations upon taking title to the unit. You cannot do anything contrary to those documents. That’s part of the reason that you are given three days to review those governing documents when purchasing a resale condominium. If the restrictions do not work for you, that is the time to raise the issue. Further, Chapter 718, Florida Statutes, provides that these provisions are also deemed incorporated into any lease of a unit. Therefore, it is incumbent upon landlords to inform their tenants as to what is allowed and what is prohibited in the condominium where the unit is located.

Mark D. Friedman, B.C.S. is Board Certified by the Florida Bar in Condominium and Planned Development Law. This column is intended for educational purposes only and is not meant as legal advice. If you have any concerns about maintenance obligations, you should consult your condominium’s attorney before proceeding. Mr. Friedman may be reached at MFriedman@beckerlawyers.com.



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