

Florida Apartments – Conversion to Condo Owner

by David Erik Chase, Architect, AIA | Jul 4, 2023



Pre-Turnover and Statutory Processes

Suppose you have lived for 15 years as a rental occupant in an apartment complex which was recently purchased by a Developer to convert it to future Condominium ownership. What are the responsibilities of the Developer to prepare the Apartment complex for future condominium sale? What will be the capital building reserve responsibilities of a new Condominium Association, after the Developer turns the project over?

The Condominium Act, Florida Statutes 718 Part VI, (“Roth Act”), guides any new condo conversion process for the creation, sale, and future operation of converted condominium projects.

Assuming a 15-year-old apartment complex will most likely have construction element deterioration requiring updated Building Code and industry standard repair and/or replacements, due to past continued use. Statutes require the Developer to fund or set up warranty accounts for converter reserves for these capital expenditures and deferred maintenance activities according to Florida Statute 718.618.

The First benchmark: Prior to the Developer’s filing the Statute required “Declaration of Condominium”, the Developer is to retain professional services of an Architect or Engineer for an on-site Disclosure of Condition Report. The scope of the Report, under seal of the professional, is to account for the actual current condition of the existing building(s) and site improvements by including a factual and evidentiary analysis of the prior use of all common elements and the termite status of the building, age of the property, remaining useful life and replacement costs of specific project components.

This Report will not contain any representations by the Developer concerning future improvements or repairs but must be limited to the current condition of the building components and systems.

These are the components which include, as specified in Florida Statutes, {07/01/2021}-718.616 (3)(a):

1. Roof
2. Structure (and exterior wall envelope)
3. Fire protection systems
4. Elevators
5. Heating & cooling systems
6. Plumbing
7. Electrical systems
8. Swimming pool
9. Seawalls
10. Pavement and concrete, including roadways, walkways, and parking areas
11. Drainage systems
12. Irrigation systems

After Statutes 718.616 are satisfied, the professional is required to submit this Disclosure of Condition Report to the Florida Department of Business and Professional Regulation, Division of Land Sales and Condominiums in Tallahassee. This becomes the “official” public filing of the specific conversion project and the public has a right to rely on its accuracy for any purchase consideration.

Second benchmark: Once the Report is completed, to protect the future Association Owners from financial hardships, the Developer must choose from three (3) funding options: Converter Reserves, provide Warranty Options, or post a Surety Bond. If the Converter Reserve option is selected, the Developer is statutorily obligated to apply the estimated costs regarding the requirements of Florida Statute 718.618 (1) (a), 2 and 3, (Air-conditioning-Plumbing-Roofing), together with the items addressed in the Disclosure of Condition Report.

If elected, rather than Converter Reserves, the Developer may grant an implied Warranty, with certain maintenance and other provisions, to each purchaser of a unit for its intended use, fitness, and purpose, including the common areas and the capital values are guided by the findings of the Disclosure of Condition Report. The Warranty may be offered in various timing options which include three (3) years from the date of the filing of the Declaration of Condominium. And, or...the Developer may select a Surety Bond which is equal to the total funding requirements of the Disclosure of Condition Report and Statutory requirements as stated above.

Third benchmark: After Turnover, the Association prepares its Annual Budget according to Statute 718.112 (2)f (2). Simply stated,“shall include, but are not limited to, roof replacement, building painting and pavement resurfacing...and any other item for which deferred maintenance expense or replacement cost exceeds \$10,000 ”.

These building component valuations are based upon their latest estimated useful life plus the replacement cost and/or deferred maintenance expense. It is critical the Condominium Association understands that the quality of the pre-Turnover Disclosure of Condition Report and cost estimates for component replacements are accurate and reflect current dollar values. Also, that the projected useful life of all components are industry standard...to ensure enough future

financial liquidity to respond to stipulated common area building needs as stipulated in the Declaration of Condominium. (Nb. Legal consultation is always advisable in this entire process.)

July 4, 2023. Disclaimer: David Erik Chase is a registered Architect in 22 states and not an attorney. The content of this article is intended only as a general overview of process and not a representation for guidance or any professional opinions, as advice.