**STATE PROTECTION FOR CONDOS MAY BE COSTLY**

**BY: WILLIAM G. MORRIS, ESQ.**

Champlain Towers South Condominium collapsed in 2021 killing 98 people. It did not take Florida’s legislature long to enact broad statutory requirements for structural inspections and funding reserve accounts for Florida condominiums.

Florida now requires structural inspections for residential condominium buildings 3 stories or taller no later than the year in which the building is 30 years old and every 10 years thereafter. The local enforcement agency can mandate inspection at 25 years if it determines circumstances like proximity to saltwater warrant earlier inspection.

The mandatory inspections are termed “Milestone Inspections.” The inspections must be conducted by a Florida licensed architect or engineer and are done in two phases. Phase I is a visual inspection. If the visual inspection finds no sign of substantial structural deterioration, no further inspection is required. If the Phase I inspection reveals signs of substantial structural deterioration, a Phase II inspection is required. Phase II may involve destructive testing at the inspector’s direction.

After either inspection is completed, the architect or engineer provides a report to the association and to the building official of the local government who has jurisdiction. The report must include an inspector-generated summary. The association must distribute a copy of the summary to each unit owner within 45 days after receipt.

The Milestone Inspections tell the association and local government building official if improvements need structural repair. they might have known that in the Champlain Towers South Condominium. What they did not do in Champlain Towers South was collect enough money from the unit owners to keep the building in good repair. That has been common practice in Florida. Condominiums unit owners do not want to pay assessments to be held in reserve for future repairs of a building they might not even own when repairs are needed. They voted to reduce or eliminate reserve funding.

Florida statutes now mandate fully funding reserve accounts for structural items. Waiver or reduced funding is prohibited. How was that done?

Florida condominiums are now required to have a Structural Integrity Reserve Study (“SIRS”) completed at least every 10 years for each building that is 3 stories or higher. The studies must, at a minimum, include (A) roof, (B) structure, (C) fireproofing and fire protection, (D) plumbing, (E) electrical systems, (F) waterproofing and exterior painting, (G) windows and exterior doors and (H) any other item for which deferred maintenance or replacement cost will exceed $10,000 and failure to maintain or replace would negatively affect the items listed in (A) through (G).

If the SIRS is done prior to the Milestone Inspection, it may be visual only. A SIRS may be prepared by a Florida licensed architect or engineer or by a person certified as a reserve specialist or professional reserve analyst by the Community Association Institution or the Association of Professional Reserve Analysts.

A SIRS must identify each item of the property being inspected, state estimated remaining useful life and estimated cost of replacement or deferred maintenance and provide a reserve funding schedule with a recommended annual reserve amount that achieves estimated replacement cost or deferred maintenance expense when it will be needed. If an item has a remaining useful life greater than 25 years, the SIRS need not recommend reserves for that item. An association must distribute a copy of the SIRS to unit owners and to the Division of Florida Condominiums, Timeshares and Mobile Homes within 45 days after receipt.

The new statutes will cost some condominium owners a lot of money as their associations fund reserves and make repairs which were previously ignored. Buyers might inherit those expenses. That will make it important for buyers to compare structural condition of condominiums along with reserve funding. Florida’s legislature wants to help and did so by mandating disclosure in residential condominium sale contracts.

Contracts for sale of residential condominiums must tell the buyer if the association is required to have a Milestone Inspection, if the inspection has been done, if the association is required to have a SIRS and if the SIRS. The contract must also state the buyer is entitled to a copy of the summary report of the Milestone Inspection and a copy of the most recent SIRS. The buyer has 3 business days within which to terminate the contract and get back any deposit after receipt of the Milestone Inspection summary report and SIRS.

The legislature gave developers an additional disclosure obligation concerning structural integrity. Developers of residential condominiums must now provide a turnover inspection report when control of a condominium associations transferred from the developer to unit owners. The turnover inspection report is a SIRS and is required for all residential condominiums, even those less than 3 stories.

The turnover inspection report becomes part of the official records for the condominium and contracts for sale must let the buyer know if the association is required to have a turnover inspection report or if one has been completed. The buyer has 3 business days from buyer receipt of the turnover inspection report to terminate the transaction and get refund of any deposit.

All of these new statutes will increase protections for residential condominium owners and potential owners. In the short run, they may result in condominium owners paying a lot of money to repair structural items or reserve for repairs when little to nothing has been reserved. In the long run, it is hoped that the new statutes will prevent another Champlain Towers South disaster.

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