



Forced To Give Up Condos



Tribune photo by CHRISTINE DELESSIO

Shane Mummery might be bought out of his condo for less than what he paid a developer who wants to return the Portofino to apartments.

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TAMPA - Shane Mummery and dozens of his neighbors are on the verge of losing their homes - and they face hefty losses on their investments.

They haven't missed mortgage payments, and they don't want to sell. But none of that matters.

Mummery and his neighbors own units in a New Tampa complex that failed as an apartment-to-condominium conversion. The 396 units in Portofino were put on the market as condos in 2006, but the developer sold just 31 of them. Last July, an apartment management company bought the rest of the units. Now, that company wants to terminate the condominium, buy out the individual unit owners - at today's lower market rate - and convert the whole complex back to apartments.

And, apparently, the condo owners may have little say. A revised Florida statute and

provisions in the original condominium declaration make it easier for the developer to force owners out.

What's happening at Portofino is a new twist in the real estate crisis sweeping the nation, but experts say it's likely the beginning of a trend in states such as Florida, where more apartment units sold as condos than in any other state. Thousands of these complexes have fizzled as condominiums. Other companies already are trying to terminate various Florida complexes, real estate attorneys say.

For Mummery, it doesn't seem possible.

"It was my interpretation that you buy property and no one has the right to take it from you as long as you make your payments," Mummery said. "I can't imagine being told by a court that you must sell, and you must lose money."

Alan Pollack, an owner of the company, Chicago-based Providence Management Corp., said he understands the owners' plight but thinks it's in everybody's best interest to turn Portofino back into an apartment complex.

"We're not kicking anyone out of their homes," Pollack said. "They can live there forever, they just have to rent."

Thousands Of Apartments Have Reverted

In the Tampa Bay area, dozens of converted apartment complexes are half empty. Since 2004, nearly 29,000 apartments were converted to condominium units in Hillsborough, Pinellas, Pasco and Hernando counties, according to New York-based research firm Real Capital Analytics. That's the third highest of all metro areas in the nation. Only the metro areas of Miami-Palm Beach and Orlando have more.

So far, 3,500 units in the Tampa area have reverted to apartments, according to the research firm. Several of the conversion companies have gone bankrupt or let complexes fall into foreclosure. In many cases, the people who purchased units are living among a sea of renters.

Donna Berger, a condominium lawyer with Katzman & Korr in Fort Lauderdale, said the Portofino situation is an "unintended consequence" of an amendment to a Florida statute. The revision, she said, was supposed to help owners terminate a condominium more easily in extreme cases, such as when a hurricane destroys the complex or makes it impossible to run it as a condominium.

"This is the flip side of the statute," Berger said. "I don't think this is what legislators intended. This definitely opens the door for more condo conversions to be terminated."

State law used to require 100 percent of condo unit owners to approve before a condominium could be terminated. The statute was amended in July to require only 80 percent of the owners' approval, unless 10 percent vote against termination.

The 10 percent addition was intended to protect condo owners from developers swooping in and taking over, said Gary Poliakoff, of the Fort Lauderdale firm Becker & Poliakoff. But in the

case of converted apartments that failed as condominiums, he said, it's possible for developers to acquire enough units to force the termination.

At Portofino, the condominium declaration states that once the condominium is terminated, approving owners can buy units from disapproving owners at "fair market value."

Now that the real estate market is in steep decline, fair market value means owners may be out tens of thousands of dollars compared to what they originally paid for their units. When the condominium is actually terminated, independent appraisers and an arbitrator could help determine the value.

Armed with the statute and the condominium declaration, Pollack said his company is following the laws and exercising its rights. Officials at Providence Management knew about the statute and the document's wording in July when they purchased the 365 units for \$120,000 apiece, Pollack said.

Providence Management has two other projects in St. Petersburg, but neither is similar to Portofino. The company owns Lakeside Village Apartments, which it is rehabbing, and the former Plaza Fifth apartment building. Pollack said it is doing extensive rehabilitations and plans to call the finished building Skyline.

Pollack said he understands why condo owners would be upset about losing money but said everyone will be better off in the long run if the owners "cut their losses now."

"If only 10 percent of the units are owned and everything else is rental, how will anyone get anything out of their investment?" he said.

The company plans to terminate the condominium soon and is trying to buy as many units now as possible, he said. It has been successful with three sales so far; all three sold in January for \$127,000 each, according to the Hillsborough County Property Appraiser's Office. Condominiums at Portofino originally sold for an average of \$150,000.

Owners Say They Will Lose Thousands

For the past few months, Pollack has contacted owners and made offers by phone. Mummery said he was told future offers on his one-bedroom condo would be lower and that he should sell now to get the most money.

Mummery said he would lose at least \$16,000 on a sale to Pollack and would likely go into foreclosure.

Stanley Romanek said he paid \$175,000 for his unit in October 2006 and was told at the time that the complex was nearly sold out. "I bought at the peak of the market," he said. "I have a lot to lose." Romanek said he hasn't been made a concrete offer yet.

Jitendra Sutaria sold his unit to Pollack's company in February and said he lost \$15,000 on the deal. He said he felt intimidated and thought the state statute and condominium documents were stacked against him. If he waited to sell, he said he feared he would lose even more money.

Raymond Burger, a Tampa lawyer representing Mummery, said he thinks forcing the Portofino owners to sell is against their constitutional rights.

"Just because something is written in the condo declaration, doesn't mean it's legal," he said.

The courts may work out any legal issue, but for now, the statute appears to allow what's happening at Portofino, said Jon Peet, chief of compliance for the Florida Division of Land Sales, Condominium and Mobile Homes.

Peet said he is aware of only one other converted condominium in circumstances similar to Portofino.

The developers of Eden Condominiums in Boca Raton sold condominium units in one of its four buildings and planned to upgrade the others. But now that the market has changed, the developer wants to convert the complex into an assisted living facility, said Steven Platzek, an attorney for several of the condo owners.

The developer has made offers to some unit owners, Platzek said, but none have closed. Some of the owners are upset the developer didn't finish the project as planned.

He said he also thinks the amended statute opens the door for other condominiums to be terminated by developers.

"The statute gives the developer the opportunity to exploit their position as the majority unit owner," he said.

Pollack, of Providence Management, said Portofino is the company's first project to revert condos back to apartments but said it is actively scouting failed conversions that would make good investments. He said he thinks other companies are looking, too.

The process of buying condominium conversion is complicated, he said. But if the company can buy now, while the real estate market is soft, it will pay off later when the market rebounds.

"Some view these complexes as a headache," Pollack said. "I view them as opportunities."

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