



# Transitions in Condominiums

## Control and Responsibility

[by Jack Carr, P.E., RS, LEED-AP]

**All things are in transition. Nature, the Patriots, and condo communities go through transitions.**

In the world of condos, many of these transition milestones are well understood, many are not. Most know condos go through a transition management period from the developer to unit owner, but there is much more. Condo transition has two primary elements: transition of control and transition of responsibility.

### TRANSITION OF CONTROL

Transition of Control refers to the new board being primarily managed by the unit owners. It is often useful for the developer to have some representation on this new board. Prior to this new board forming, all available condo documents

and records should be gathered and reviewed. At this point the new board may want to engage an attorney to assist in this process of collecting the executed bylaws, filed articles, public offering statement, financial records, meeting minutes, construction plans, maintenance records, insurance policies, warranties, service contracts, and unit files.

Care should be taken in engaging the attorney as not all attorneys have experience in representing transitioning associations. The attorney should be well versed in collections and reviewing policy resolutions, as well as initial contracts. Similarly, experience in dealing with construction quality claims and defect resolution is very important. The new board will also be relying on the at-

torney to review financial issues as they present themselves.

The board should also consider implementing a transition study. This study often includes hiring an engineering firm to compare the condo project drawings and specifications to actual common element conditions to render an opinion on whether the board should accept the facilities as is or conditionally until deficiencies are corrected. These deficiencies arise from the discovery of violation of industry standards or building codes, failure to follow plans and specifications, design deficiencies, and product failure.

Some of the most useful project documents, if they are available, include "as-built" construction drawings, approved site drawings and land surveys,



## Helpful Advice **TRANSITIONS**



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landscaping plans showing all plantings and planned grounds amenities, list of contractors and service providers and their contact information, and an inventory of all major building elements and their manufacturers.

In parallel with the engineering effort, the board may also hire a forensic accountant to review the developer's use of unit owners' funds to operate the facilities until the transition is completed.

### TRANSITION OF RESPONSIBILITY

The transition of responsibility refers to the moment in time the developer (declarant) transfers one or more common elements to the unit owner board. In large condo complexes, certificates of substantial completion are issued as major common elements such as clubhouses, pools, or building phases are put into service. These certificates are often controlled by professional engineers engaged by the developer or new board.

Transition issues not only rest with the condo association but also the local community will take a part in the process. Code enforcement officers will be inspecting the property throughout the project life to insure the buildings meet current building and energy codes. Local fire marshals and planning boards will be reviewing project documents to ensure both life safety and compliance with local standards. Some of the common elements such as landscaping and storm water infrastructure may also have performance bonds in place to guarantee the site plans are completed as approved.

Though the new board may not be aware of it, the local planning board,

as well as the building inspection department of the municipality, vetted this project whether it was a newly constructed facility or a conversion of a former multi-family building or other commercial structure. Some cities and towns have enacted condo conversion ordinances to ensure the new condominium will meet the minimum standards set by the city or town for structural stability, mechanical/electrical requirements, and life safety features. What this means for the new board is there may be resources and history available at the local level to assist in the transition process.

Transition continues for the life of a condo community. A good transition process will provide the basis for the understanding of standards of common element condition including building envelope; mechanical systems; life safety; and grounds. These standards will contribute to reserve fund estimates of estimated useful lives and form a good foundation to develop both operating and capital repair budgets. With these budgets, the cash flow analysis can be performed resulting in a rational projection of future assessments to meet future spending needs. With this road map, future boards and their new members will be able to easily transition to their new roles as future leaders of a successful condo community.



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