

## **Condos may put focus on laws**

### **Lawyer says apartment conversions may raise new issues for builders**

**By HUBBLE SMITH**  
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Most people have never heard of the state and federal laws governing conversions of apartments to condominiums and they haven't really been tested in court, said Scott Canepa, a Las Vegas attorney who represents homeowners associations in construction litigations.

That's going to change as some 12,000 apartment units in Las Vegas are expected to be converted to condos over the next several years, providing an affordable alternative to skyrocketing home prices.

At the federal level, the Condominium and Cooperative Conversion Protection and Abuse Relief Act deals with conversion lending, termination of rental contracts and valuation analysis for federal Department of Housing and Urban Development home mortgage insurance, among other things.

Nevada Revised Statutes Chapter 116 addresses the 120-day "notice of intent to vacate" that must be given to tenants, implied and express warranties of quality and the definition of "converted buildings."

Local ordinances such as one on the Henderson books go far beyond the federal law, requiring comprehensive inspections of buildings and grounds by a licensed civil engineer, mandatory storage space and parking, rental history and appearance standards.

Henderson officials want to know where the 95 percent of people displaced from their apartments are going to live and whether they're going to be able to find a place at comparable rents. There are special provisions for the elderly, disabled and low-income families.

The city of Sparks has a similar ordinance that includes tenants' rights to moving expenses and an extended period for the first right to purchase. Also, developers are required to post a performance bond or other security for 100 percent of the improvements.

"That's huge. You may start to get a flavor that condo conversion is not a walk in the park," Canepa said at a recent forum sponsored by Nevada Association Services.

Few insurance companies are willing to take on condo conversions because the units have essentially gone through a "sex change" and nobody knows what they are, said Mark Coolman, executive vice president of Western Risk Insurance in Las Vegas.

They're relatively new developments with little history on what can go wrong and not a lot of case law, he said.

"Underwriters are very strange animals. Their job is to make a profit and make sure the risk doesn't result in a loss," Coolman said. "If you get an underwriter who likes apartments, he probably doesn't like condos."

He said many managers of homeowners associations think all insurance is the same and they simply look at the price. Contracts and coverage are much more important than price.

Everyone who had a hand in the project at all professional levels, from the architect, engineers and contractors to the developers and managers, should have errors and omissions insurance, he said.

Mark Baker, principal of IBA Consultants, an engineering firm specializing in the framework on buildings, experienced the "condo craze" in New York and Florida, where developers bought old beach front hotels, converted the rooms to condos and sold them for \$80,000 to \$90,000.

"It can be done well when the investment is made," Baker said. "If you want to do it well, you'll probably get close to building a new building, knock it down and start over again. We've seen conversions where the developers did not put new windows in and the condo (owners) association jumped all over it."

The main thing is to know the history on a project, what kind of upgrades were done, how much per square foot was spent on improvements, insurance executive Coolman said.

"How much is this worth, \$70 a foot or \$700 a foot? What's the proper value to give it a proper rating?," he said.

From the development side, condo conversions have relatively low downside risks, Canepa said. Property owners can still rent out units during and after the conversion process. The lack of affordable single-family detached housing is driving demand for condo conversions, which are typically selling for \$90,000 to \$150,000.

SalesTraq, a local housing research company, reported 11,521 condo closings last year at a median price of \$145,000, compared with 8,598 closings in 2003 at a median of \$104,876.

Canepa said condo converters' strategy is to find a desirable location with a shortage of apartment units and affordable housing, usually somewhere near the Strip. They're taking advantage of low interest rates and crippled apartment fundamentals in Las Vegas such as flat rental income and high vacancy, though the apartment market is recovering.

Apartment dwellers have the first option on condos, but only about 5 percent actually buy, Canepa noted. Many of them are renting because they can't meet income requirements for loans.

Investors and speculators are naturally attracted to condo conversions, resulting in a high percentage of non owner-occupants, which can jeopardize federally insured mortgage loans.

"There's always going to be speculators buying just to flip it," Canepa said. "If HUD or FHA audits them and finds that developers sold with the wink of an eye, there could be some real repercussions."