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Buyers: Condo contracts are not worth the wait

Tampa Bay Business Journal - by [Michael Hinman](#) Staff Writer

TAMPA -- Condominium buyers who jumped on board a hot market are now looking for ways to walk away with refunded deposits.

Increasingly, they're pointing to perceived violations of the Interstate Land Sales Full Disclosure Act and resulting property reports. Among the disclosures made through ILSA are guarantees that, barring a natural disaster or eminent domain proceedings, condo communities will be completed within two years of the purchase date.

"Before 2005, no developer really worried about it," said Hank Sorensen, a Port Richey-based real estate attorney with Henry T. Sorensen II PA who is representing a number of buyers trying to leave sales contracts with downtown Tampa condo developers. "Everybody had drafted these contracts before, and no one thought that it would take more than two years to build a condo and have it occupied."

But a "perfect storm" of problems hit condominiums in Florida in 2006 from higher interest rates and the ensuing sudden drop of the real estate market to labor and material shortages following the hurricanes of 2004-05 along with increased concrete exports to China in preparation of the 2008 Olympics.

Hitting back

Tampa's Channelside District seems to be taking a brunt of the condo buyer exodus.

Changing Channelside from a decades-old industrial seaport to a potential home for some 3,000 families had been heralded by city leaders as a way to transform a downtown core that virtually dies when the work day ends. But move-ins have been far more sporadic than anticipated.

Instead of sitting on pre-sales, investors are trying to recover money with claims of material and adverse changes to purchased units from ceiling finishes to square footage anomalies. Some buyers say they have lost as much as 10-by-10-foot rooms from original planning to the final walk-through.

"There is a general attitude that these are just a bunch of investors trying to get out of properties, but I wouldn't be taking these cases if they didn't have legitimate claims," Sorensen said.

[Key Developers Group Inc.](#) in Tampa has been hard hit with lawsuits so far, according to Hillsborough County court records. The company has been sued nearly 100 times since the

beginning of the year for a range of actions including rescission demands and breach of contract for The Place at Channelside, 440 units ranging from 600 to 3,700 square feet according to listings. Fida Sirdar, president of Key Developers, didn't return calls seeking comment.

Condo developers are striking back.

The Legislature passed a law this year that would not allow buyers to back out of contracts just because construction costs ballooned out of a developer's control. It was a provision meant to tackle rising insurance rates, but it spread out even wider thanks to heavy lobbying from developers, said Donna D. Berger, a partner with [Katzman & Korr](#), a Fort Lauderdale-based law firm that represents homeowners associations throughout the state.

"I think desperation is on both sides of the aisle," Berger said. "Developers want to absolutely avoid triggering new rescission rights at any cost, and I see purchasers who signed on the dotted line years ago now desperately trying to get out of these contracts because they won't be able to meet their monthly payments."

Living with a decision

[Ventana Tampa LLC](#) and [Towers of Channelside LLC](#) also have been hit with lawsuits, but nowhere near the number Key Developers has.

It's not an issue just plaguing Channelside, said Christine Burdick, president of the [Tampa Downtown Partnership](#).

"There were a number of people who came into this market seeking investments, and they weren't going to live in those units anyway," Burdick said. "I think what's happening now is a purifying of the market. Investors weren't bad, but it sounds like some were really over their heads."

If nothing else, the fallout from the condominium boom has helped educate developers on how to avoid such problems in the future, Sorensen said. "I'm the first person to admit that a substantial amount of investors went into these buildings, but the developers had every ability in the world to police that, and they didn't."

A way to curb the influx of short-term investors could have come from putting a right of first refusal clause in purchase agreements, Sorensen said. It would force a buyer to offer the unit back to the developer for the amount originally sold during a specific period of time, making it unattractive to investors not ready to hold on for the long haul. Some developers in the latter end of the most recent boom started to include such language to prevent too much speculation to occur in presales.

"They could've done that, but they chose not to," Sorensen said. "They chose to make the sale instead. You can say that the investor should be forced to live with the decision they made, but the developer should be forced to live with the decisions they made, too."

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