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CONDO SERFS

HEINZ DINTER, PhD



Miami

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CONDO*MONIUM

Condominium — joint dominion; esp: joint sovereignty by two or more nations; a government operating under joint rule; a politically dependent territory under condominium; individual ownership of a unit in a multiunit structure (as an apartment building); also a unit so owned; a building containing condominiums.

Pandemonium — the capital of Hell in Milton's Paradise Lost; the infernal regions: HELL; a wild uproar: TUMULT

*We are not afraid to follow truth
wherever it may lead,
nor to tolerate any error
so long as reason is left free to combat it.*

Thomas Jefferson (1743-1826)
3rd United States president

This booklet is dedicated to
the memory of
Lourdes Chauvet
(1944-2006)

Table Of Contents

What It's All About	4
A Fairy Tale	5
What If ...	7
The Developer Is Your Lord and Master	11
Tips to Help Promote What You Do or Who You Are With this Booklet	24

What It's All About

Look up and what do you see? In the *Magic City* it's the blue sky of Florida sunshine fame and a flock of cranes, the tall construction types, thrusting higher and higher intent on caressing the Moon over Miami. The excitement of stunning condos reaching for the sky — in competition for your attention akin a beauty contest and dazzling you with architectural excellence — confirms the condo lifestyle in Miami has a bright future. A visit to www.miamiMagic.net showered you with a multitude of choices.

Are you looking for a condo? Heed the *caveat emptor* warning as part of your search for a condo of your dreams or a rewarding investment.

First-hand experience is always a useful guide and this booklet's intent is to be such a guide. It's for your peace of mind.

You'll read here the true story of life in a multi-use condominium complex.

Please visit www.condomonium.blogspot.com and www.condomonium.net for more on the subject.

A Fairy Tale

One frustrated condominium unit owner turned poet and told it as it is.

ONCE UPON A TIME, a visionary built a castle on the shores of a very large and pretty body of water.

His vision was a city within itself wherein all of the inhabitants would self-govern and live happily ever after.

Monies were obtained from a treasury in the North, as great excitement was generated by such a concept in an area of the kingdom that needed a boost as that central area had long been in disrepair.

Necessary monies and permissions from the wizards (the city) were obtained and construction was begun. The visionary began selling portions of the castle for gold to the good people of the area and to others from afar.

In addition, portions of the castle were to be rented to merchants, while another portion was to be used to house weary travelers; and finally, a section was to be dedicated to stables for the inhabitants to house their steeds. As time marched on, as it usually does, the visionary ran out of gold.

And the treasury guardians from the North came and took over the castle. The treasury guardians realized that many facets of the castle did not meet the laws of the realm, and

its condition (not enough stalls in the stable) would not allow a sale of the castle. So like good guardians, the treasurers from the North enlisted the aid of local enablers to make things right for the sale of the castle. In the meanwhile, the poor inhabitants were subjected to many inconveniences and were being made aware of the many failures in the castle resulting from the visionary's failure of omissions and commissions that had earlier been recognized by the treasury guardians. The enablers soon passed many dictums, all of which were detrimental to the financial and mental wellness of the poor owner-participants in the castle. Once these dictums were unilaterally adopted by the enablers, the castle was properly positioned to be sold. And so it was. It was only at this time that the hapless inhabitants finally realized they could never self-govern as promised and would remain serfs to the interests of the stables, the home for weary travelers and the new lord. These free owners, now called serfs, spoke words that were 300 years ahead of their time, "Taxation without representation is tyranny." As in all good fairy tales, there is only one answer: Partition!

*Your Humble Serf, L. B.**

Le Grandeur Condos on the Bay

**He prefers anonymity; actually, his wife does*

What If ...

YOU MAY WONDER why I would share my experiences of condominium living with you.

Nearly two decades ago I moved into a beautiful condominium building that was touted to be the most luxurious condo on Biscayne Bay in Miami, the beautiful body of water separating the city of Miami from Miami Beach.

One evening I found a note slipped under my apartment door inviting me to join other unit owners and tenants of this stunning building with its 910 residential condo units to discuss problems — and there were many.

A consortium of three huge banks, American, Canadian and Japanese, owned the building now because the original developer couldn't make the mortgage payments when sales were super slow, and he handed over the title in lieu of foreclosure. The banks had to unload this expensive property — several hundred millions of dollars were tied up in the banks' customers' funds.

A real estate promoter from across our northern border made the banks a sweetheart deal and in the process cheated the residential unit owners.

The engineers hired by the buyer to inspect the building discovered some million dollars worth of construction defects. For example, the air-conditioning risers that carry water to the more than fifty floors would burst within a few years because of the cheap material used, the engineers warned. The bank reduced the price by two million dollars

and that credit was to be used to fix the time bomb. However, that money wound up in the pockets of the new successor developer — that's what such a buyer is called — instead of being used to fix the construction defects.

Less than half a dozen years later the pipes began to burst and the unit owners were presented with the bills in the name of the condo association which was run by the hand-picked appointee of the successor developer because he and he alone controlled four of the seven votes on the condo association's board of directors as clearly spelled out in the condo documents — thanks to the document's architect, the genius of the original developer of this marvelous multi-use condominium.

And then there is the covenant! The copy of the covenant is barely readable. Is the sloppy copying by design? Few, if any, recognize the significance of this document when first laying eyes on this one-page piece of paper that's part of the condominium documents every condo buyer receives as the laws of the state of Florida require. That, I hasten to add, is supposed to protect the public. Protect against what you may ask? Hold your horses; you will get the drift as you read on. This covenant looks just like any other routine legal mambo jumbo that, the average person assumes, must be okay. After all, it looks official and even has the government's name on it.

And I was fool enough to discover all this hanky panky: the slavery situation, the flourishing prostitution business, the stealing from the res-

idential unit owners for the benefit of the hotel under the same roof owned by the developer, and the milking of the people who owned their homes in the condo complex.

I also discovered the new successor developer, who is also a real estate promoter, engaged in numerous mortgage application frauds. He sold condo units in a real estate tax shelter scheme with professionals who live closer to the north pole than you and I, and told U.S. mortgage companies and banks that these investors were going to live and enjoy the condos in Miami as a second home which of course was totally false because these investors received and accepted in the same breath an agreement from the real estate promoter that called for the management and rental of these units.

I documented this kind of federal crime in *Grand Lifestyle*, a publication I founded as a vehicle for keeping *Le Grandeur's* owners and tenants informed on what is happening.

For years, seven to be exact, the developer was not brought to justice except, since the cat was out of the sack and the FBI had begun an investigation, he paid more than a million and a half dollars to repurchase these condos to prevent their going into foreclosure at the artificially inflated price in his tax shelter scheme, prices which were way above the market value — and he repaid the banks the fraudulently secured mortgage loans. In addition, the successor developer and his partner admitted their guilt in a manner that kept them out of jail and paid Uncle Sam an eight hundred

thousand dollar fine — that’s an 8 followed by five zeros (\$800,000).

What if I had not gotten involved? What if I hadn’t kept my eyes and ears open, and not thoroughly documented what I discovered?

What if they would have shed complacency and had gotten involved? Are they resigned to their fate? The exploitation is still alive and well nearly two decades later. I am referring to Le Grandeur’s unit owners who are exploited and abused — that’s who I am talking about. Indeed, what if ...

You buy. What if you won’t get involved as a unit owner? Then do at least one thing: Carefully read the “Condo Documents” before signing on the dotted line. Get a competent lawyer to help you out because that’s who it takes to wade through the tricky language of this huge document.

These pages contain episodes of what goes on in a condominium complex — what those who are your neighbors do and what those who control and run the complex pursue. Bear in mind your home is part of such multi-use complex if you buy.

What you read here are facts (though names have been changed to protect the guilty) and not fiction — the truth and nothing but the truth are offered here to motivate you — and as a smart buyer you will lean on due diligence and let a competent lawyer carefully review the condo documents before committing to the purchase.

That’s life in a condominium. It can deliver peace of mind. It can also reign pandemonium.

Miami, Florida

HD

*The Developer Is Your Lord
and Master*

THE ARRIVAL OF THE SUCCESSOR DEVELOPER came with new surprises. Pierre Helkey appeared to be shy and low-key. What did not appear were the Canadian real estate promoter's clever plans to make use of the inherited autocratic controls over the residential unit owners he inherited from the original developer via the cleverly devised condo documents.

A combination of deep-pocket bank participation, absolute control over decision-making, carving out lucrative profit centers, and the unchallenged ability to shift operating expenses to others was considered a promoter's dream. Is it too good to be true?

He had a dream

Developer Tibor Haben had a grand dream. With the help of bank money he built the largest multi-use residential building in the southeastern United States. The luxurious complex, located in Miami on the shores of Biscayne Bay, a stone's throw from downtown, and across the street from a section of town so far ignored by economic revival, was completed in 1986.

"Le Grandeur Condos On The Bay" consists of 910 residential condominium units, a 150-room hotel, and 80,000 square feet of retail space. Haben also masterminded a formula for protecting his

investment with an ironclad document — the condominium association bylaws — that keeps generating huge profits for the developer long after the residential units are sold to homeowners.

Maintaining ownership of the commercial and retail units represents one extraordinary opportunity for profits. Maintaining control of the condo association that administers the entire complex protects the moneymaking opportunities.

The profits are derived from five sources:

- Residential unit owners carry the lion's share of unfairly allocated operating expenses without voting control;
- Ownership of income-producing units of the complex is retained by the developer instead of being turned over to the condo association for the benefit of the residential unit owners;
- Maintenance and other operating expenses of the developer-owned units — including commercial and retail units — are shifted to the condo association;
- Construction deficiencies are not corrected at the expense of the developer (they will become a financial burden to the home owners via assessments when the costly corrective measures can no longer be ignored);
- Reserve fund budgeting is voted down by the developer-controlled condominium membership to avoid the necessity of putting up money today, reasoning that the developer won't be around when major repair problems arise.

The banks take over

Tibor Haben's dream dissipated because sales of residential units trickled and the banks wanted to get paid on time. The latter took the building back in lieu of foreclosure at the end of 1989 and became the owner and successor developer. They also inherited the formula for success: absolute and ever-lasting control of the complex.

The banks — exposed to public scrutiny and reeling under the pressure from banking regulators — needed to shed their publicly recognizable connection because bank charters (protecting the depositors' money) do not favor controversial, high-flying real estate ventures plagued by high risk and not readily justified and documented transactions.

Unfortunately, the banks' profit motive dominated fairness and prevented the new owners from giving control to those who bought in good faith and many of whom had invested their life savings — the residential condominium owners who invested in their home and sought the grand lifestyle. Instead, the banks made a sweetheart deal with promoters.

Facing angry homeowners at a meeting of residents, Helkey admitted, "We bought based on the existing condo documents." He made it clear to the property owners and renters present that he would resist any change in the control of Le Grandeur.

The Canadian promoter planned to use the United Bank of New York's money with the protection from the condominium bylaws to turn the condominium into a short-term luxury rental vaca-

tion paradise for Canadian citizens.

With the Canadians' "second home" occupied by Miami renters, Helkey, in actuality, has another lucrative business going: Le Grandeur Luxe hotel puts up the vacationers in hotel rooms and condo apartments, calling the latter *Suite Le Grandeur Luxe* and charging \$250 per night.

The almost daily scene in the lobby of the Le Grandeur condominium gives more the impression of Grand Central Station. Tourists with their suitcases jam the entrance to the bank of elevators intended for the exclusive access to the residential apartments upon spilling out of buses, taxis and limos, or waiting for the return trip to the airport.

The Helkey-Argonaut team (Kenny Argonaut is Helkey's partner) set up separate Florida corporations to own the hotel (PH Hotel Corp.) and the retail space (PH Retail Corp.) with no intention of relinquishing control over the condominium association to the residential unit owners.

The residential condo dwellers are destined to pay the bills. Special assessments are becoming a necessity to cover, among other extraordinary expenditures, unexpected repairs.

One such item is the air conditioning. The condenser water distribution system for the air conditioning is normally installed for a life expectancy of some 35 years. During a twelve-months period, more than 100 repairs were necessary; and the system had only four years of use. Here's the clincher: repairs are carried out at the unit owners' expense instead of the developer who should have

been held responsible.

A major problem affecting Le Grandeur dwellers is parking. The City of Miami issued a certificate of occupancy for the building with a severe parking shortage. With less than one parking space for each of the 910 residential units, residents face a major crisis.

Meanwhile, 296 parking spaces are owned by the developer, generating healthy cash income from rental to commercial tenants. These parking stalls are also classified as condominium units with four valuable votes to block any notion by residential dwellers to gain a majority for conducting association affairs.

Referring to the problems at Le Grandeur, attorney Christopher Davies was quoted in The Miami Herald: "There's a major problem in terms of what the city did in waiving their rights to adequate parking." Davies was a member of the Florida Condominium Study Commission which issued a report with recommendations for changes to the state condominium law.

The problem was conveniently, easily, and inexpensively "solved" on April 8, 1987 when the City of Miami accepted from the developer a "Covenant Restricting Parking Facilities" that reads as follows:

Florida South East Properties Corp.

Post Office Box 012345

Miami, Florida 33101

April 8, 1987

COVENANT RESTRICTING

PARKING FACILITIES

Whereas Florida South East Properties Corp. is the Owner of VENTURA, Phase 2, a Condominium, as recorded in Plat Book 000 page 3, Dade County Public Records, Omni International Subdivision and

Whereas the Owners of VENTURA, Phase 2 have applied to the City of Miami Building and Zoning Department to grant a Certificate of Occupancy for said Building, permitted under Building Permit No. 00-8032 Revised.

Whereas the City of Miami, Florida as a condition for the issuance of a Certificate of Occupancy has requested that Owners of VENTURA, Phase 2 file with the City of Miami this instrument declaring that the parking facilities contained within VENTURA, Phase 2 that do not meet the City Ordinance standards will be a Valet Operated Facility until such time as the Parking Facilities are brought to meet City Ordinance standards or a variance from the City's Zoning Requirements may be Secured and Granted.

That in consideration of the Issuance of Certificate of Occupancy for the above described Building, located at 1717 Central Bayshore Drive, Miami, Fl., We, the Owners of VENTURA, Phase 2 submit this letter.

Should this Agreement be terminated, the City of Miami Building Department will be notified.

Bruce D. Andrews

Senior Vice President, F.S.E.P.C.

[Note: Ventura was renamed Le Grandeur in 1990.]

With the stroke of the pen and at a total cost of typing a one-page letter, the developer dodged the need of spending millions on building the additional parking spaces to satisfy the law.

On November 2, 1990, Lourdes Chanel, the first unit owners' representative on the board of directors, addressed a letter to Jeffrey R. Meyer, president of Le Grand Condominium Association, Inc. and Alan R. Graves, president of United Bank of New York:

“We are concerned as to the mandatory valet parking imposed on the owners and tenants and the elimination of storage spaces.

The owners purchased the rights to assigned parking and storage spaces. The actions being taken by the developer and its agents are directly in breach of such rights vested in the owners. We believe the condominium documents given to the buyers were defective inasmuch as this covenant of parking was not included in those documents. This constitutes a failure to disclose material facts affecting title to the property.”

There was no response from anyone. Mandatory valet parking is now in effect. A significant percentage of the monthly maintenance fee represents the expense for operating the juggernaut valet parking system.

The zealotry of the developer looking out for himself is not only hidden in the cavernous parking garage; it reaches from top to bottom. At

the top are two condominium units, complete with all voting privileges afforded its owner, the developer. The units with rights equal to those the home owners have is the rooftop with one marked difference: moneys collected from antenna space leases go into the developer's pocket, not to the condominium association for the benefit of the residential unit owners.

The unit owners are waking up

Lulled into believing they will one day control their homes as promised in the condominium documents, residential condominium buyers exercised patience and compassion because the big day when their homes would belong to them and would be under their control will surely come. Unfortunately, no one told them, and they did not figure on the developer having no intention of selling the moneymaking part of this multi-use complex.

When a management contract was forced upon the residents of Le Grandeur with outrageous terms and price tag, homeowners became angry. Kenneth Newhart, a residential unit owner, referred to the proposed management agreement as the "most outrageous document I've ever seen."

"Where is your professionalism?" he asked George Barley, the association's board member who is also president of the company proposing the management services. "Professionalism? Bull ...," Mr. Newhart said angrily.

Mrs. Chanel became the target of malicious attempts to discredit her.

She spearheaded projects of utmost importance to all residential unit owners — a petition with the Division of Land Sales, Condominiums and Mobile Homes of the State of Florida to establish that the valet parking is not a common expense that can be validly charged to the condominium owners as part of the maintenance fees and the partitioning of the Le Grandeur Condominium Association to separate the residential unit owners from the commercial and retail interests.

“I shall help make Le Grandeur the home we all can be proud of,” the iron-willed Le Grandeur dweller tried to motivate her fellow residents and to serve notice on the developer who, as Mr. Helkey stated, “will fight” to prevent the partitioning.

Apathy on the part of the unit owners and lack of unity played into the hands of the developer. The petition and the partitioning efforts withered.

Is it futile?

Residential unit owner Mercedes Dessert accused the Board of Directors of wasting her time. “It’s futile,” she said. “My time is valuable.”

“Why go through this charade; we’ll never have a vote,” she told the audience at an association meeting, referring to the allocation of directors — clearly spelled out in the bylaws — that assign two directors to the residential units, two each to the commercial and retail units, and specify one at-large director. She reminded the audience that the best the residents could hope for are

three votes out of a total of seven.

Ms. Dessert addressed George Barley, member of the Board of Directors and president of Turnstyle Management Corporation (hired by the United Bank of New York and subsequently by the Canadian group to manage Le Grandeur and act as sales agent): “The resident unit owners will never have control. Is that true?”

Mr. Barley answered, “Yes, ma’am.”

***To face or not to face the truth?
That is the question***

The many occupants of Le Grandeur are divided over many issues. At the top of the list are those affecting (control over the) quality of life and the (control over the) investment value of apartments over the long-term.

Those who believe in hiding the truth about key problems affecting Le Grandeur do so for various reasons:

- “Family” problems should stay inside the building and should be solved by the “family.”
- The value of our apartments will go down if the problems become public and we won’t be able to sell at a profit.
- What problems? Everything’s just wonderful.

Is the Le Grandeur family solving problems?
Who is the family?

What is more important, the quick and easy profit today or building lasting future value?

Problems are best prevented. And if they arise will be less costly to cure if dealt with sooner rather

than later.

Apathy is blindness. And blindness causes suffering because danger is not seen. There are telltale signs that the future health of residential ownership is in jeopardy.

Two examples (one brought on by an unforeseen act of nature, the other is the act of man's quest for profit) should convince every residential unit owner that it is in their best interest to take a stand today.

Why did the condominium association not rush to repair Hurricane Andrew damage and protect the unit owners' pocketbooks against devastating, needless drain? Jury awards in negligence lawsuits are known to reach astronomical heights.

Balcony railings blown away left gaping holes, which brings certain death to whoever steps onto such unsafe balcony and loses his or her foothold.

The shocking truth is that the railings gave way because their anchorage goes but an inch into the foundation, leaving less than a reasonable (and code-specified) opportunity for the cement base to hold onto the metal-framed glass railings.

Were repairs put off by the decision not to spend the money now?

Why? (A one million dollar deductible clause on insurance coverage leaves the responsibility to the condo association.)

Is the board (remember who controls it!) dodging cash outlays and another special assessment by knowingly accepting the risk of exposing all units to huge liabilities in the future?

Security director Brendan Grunt, questioned in the elevator by a resident why the atrium air conditioning is still not repaired nearly three months after Hurricane Andrew knocked it out of service, explained “That’s what the owners want.”

The question is, which owners is he speaking for and — most importantly — which owners does Mr. Grunt pledge his loyalty to? Is it the owner who controls the security chief’s job security or those owners he’s pledged to serve and reassures with a false sense of safety and security.

Residential unit owners who have repeatedly asked — to no avail — for correction of blatant security shortcomings in the building have lost faith in Le Grandeur security.

How is the future value of residential ownership affected by mortgage companies’ decision not to finance residential condo ownership because the residential structure is tied into a commercial enterprise and the democratic condo decision-making process is rendered non-existent by the commercial unit owners’ absolute control over the association’s board of directors?

Jason Winter of Home Savings of America worked diligently to approve a mortgage applicant. Then, however, a reversal spelled disappointment for the credit-worthy mortgage candidate. The lender, a major company for home financing, will not risk its money on condominiums not controlled by their owners and where commercial condo association members can easily manipulate the budget and all aspects of condo life.

***Does it take a martyr?
Who will pay the price?***

What does it take to shock the unit owners out of complacency?

Must tragedy strike first and the ultimate price of complacency be borne by one? When will the people of Le Grandeur right the wrongs that must be corrected anyway and paid for? Who will pay the price? Should it be an innocent accident victim who gives his life and the residential unit owners who must give hard-earned life savings? Or should it be those who created and all along managed Le Grandeur for profit. The New York bank, for one, won't wait forever to accept responsibility.

Did Ventura Kenpier, owned by Kenny and Pierre, the company in charge of selling condo units, knowing of the balcony construction exposed by hurricane Andrew, disclose the problems to prospective buyers of units? Of course not.

C'est La Vie!

Pierre Helkey, the successor developer, responding to a unit owner's warning that activities unfit for condo living may bring all residents undue grief, philosophized, "That's life!"

"It's tyranny," a frustrated Le Grandeur resident remarked and asked not to be identified for fear of retribution.

***Tips to Help Promote
What You Do or Who You Are
With this Booklet***

- 1.** Use this booklet as a gift.
- 2.** Send this booklet to your family/clients/
patients/friends/neighbors to thank them
for their friendship/help/trust/business
and to stay in touch.
- 3.** Offer this booklet free with any purchase
during a specific time period, with a
specific purchase amount, or when
opening an account.
- 4.** Distribute this booklet to prospects at a
trade show or other gathering.
- 5.** Give this booklet to those who complete a
questionnaire or survey.
- 6.** Package this booklet as a value-added
bonus with a product you sell.
- 7.** Provide this booklet to people and organi-
zations who can refer business to you.
- 8.** Do it! It will make you feel good because
they will love you for it.

**For information about quantity purchases,
including customization
with your logo and message,
contact HDinter@GrandLifestyle.com.**

ABOUT THE AUTHOR



Heinz Dinter raised his family and pursued his career as head of the computer company he founded, driven by dreams of a happy family and the challenges of capitalism.

Today he builds on memories and experiences — sharing and enjoying life with friends.

The author wants his twin children, Diane and Kenneth, and six grandchildren, Devin, Megan, Alexander, Dustin, Richard, and Charles, to experience a rewarding peace-of-mind lifestyle. That's reason enough for this booklet. And he lets it be fun.

Dr. Dinter received his B.S. in mathematics *cum laude*, M.A. in management, and Ph.D. in business administration and corporate finance from the University of Florida.

He's an avid pilot and enjoys sailing and playing tennis in Miami, Florida where he makes his home with Mia and Magic.

But he does miss Lolita, Heidi, Kitty and her brood.

*Life is mostly froth and bubble,
Two things stand like stone,
Kindness in another's trouble,
Courage in your own.
Adam Lindsay Gordon (1833-1870)
Australian Poet*

