



# Conveying Condos

## Condominium Ownership issues

By

Natalie Danielson

The condominium market is as varied as ever in the Puget Sound Region. With the increased population, the rise in land prices and the availability of affordable housing, the condominium form of ownership has become more widely used. This 3 clock hour course is designed to give the real estate agent an overview of the condominium market so as to be more effective when working with buyers and sellers of a variety of different types of ownership.

PROFESSIONAL *Direction* INC

[www.clockhours.com](http://www.clockhours.com)

# Conveying Condos

## Strategies for Listing and Selling Condominiums

### Curriculum

Session Hours	Major Topics	Method of Instruction
1 1/4 hour	Introduction Condominium laws	Lecture Discussion Read book
2 ½ hour	Condominiums vs. Coops What is a co-op and how to market one?	Lecture Discussion Read book
3 3/4 hour	Selling New construction condos. What needs to be reviewed in the Public Offering Statement? What is the status of the new condo market?	Lecture Discussion Read book
4 3/4 hour	Selling Resale condos. What needs to be reviewed in the Resale Certificate? What is the status of the market in resales?	Lecture Discussion Read book
5 ½ hour	Marketing Condominiums	Lecture Discussion Read book
6 ¼ hour	Contracts and Documents Conclusion	Lecture Discussion Take quiz

*The Condominium Act (R.C.W. 64.34) is available to agents online at [www.access.wa.gov](http://www.access.wa.gov)*

# Conveying Condos

The term “home ownership” has come to mean much more than a single-family house either in a development or out in the country. As cities grow and business and industry becomes centralized the population tends to become denser creating the need for more housing on smaller pieces of land. Land became more expensive and in demand near cities and to meet the desire for home ownership different types of ownership have been created.

The purpose of this course is to give the real estate agent an overview of the condominium market in the Puget Sound area so as to be more effective when working with buyers and sellers of a variety of different condos.

Note: Major changes are ahead as the legislature looks at the Washington state Common Ownership interest act proposed in January 2015.

## Course Objectives

As a result of taking this course the agent shall be able to:

- ❑ Know which laws affect the development, ownership and sales of condominiums
- ❑ Compare and contrast the difference between a condominium, co-op, and P.U.D.
- ❑ Identify the different uses of condominium as a form of ownership for homes, business, storage and moorage.
- ❑ Identify issues that pertain to selling new construction condos in the current market including the requirement for a Public Offering Statement.
- ❑ Know the requirement for a Resale Certificate and items to look for when working with a buyer or seller of a resale condo in the current market.
- ❑ Identify marketing tools that are effective in listing new and resale condos in different market areas in the Puget Sound Area.

A copy of the Washington Condominium Act is available to agents on the Internet for agents who would like to use it as a further reference.

For purposes of this class, the term “Condo” and “Condominium” are used to mean the same. In addition, the terms “Cooperative” and “Co-op” are to mean the same. The terms “apartment” or “unit” will refer to the individual ownership within a project. P.O.S. refers to a Public Offering Statement. Covenants, Conditions and Restrictions is known as CCR’s.

# Condominium Laws

The condominium form of ownership became popular in the 1970's in the Puget Sound Area. Today, condominium ownership and development can vary from one extreme to another.

Condominiums can be found in buildings with over 50 units or as small as a single family detached house. They can range in value from the most affordable housing available in a community to the most luxurious penthouse in downtown Seattle. A condominium can be as small as one room to thousands of square feet. It can be a home, office or boat moorage. A condominium form of ownership can extend to a time-share, trailer park, parking garage or co-housing.

Condominiums are created for many purposes but what makes them similar is the shared ownership of a percentage of the common areas and the connection to other units.

Condominium statutes are not created under the Federal Laws but under laws enacted in each state. In Washington State Condominiums fall under the Horizontal Regimes Act RCW 64.32 and the Washington Condominium Act RCW 64.34.

In 1961 the U.S. Congress amended the National Housing Act to include Condominiums. This was a model for condominium legislation. It provided a model form of legislation that contained a number of consumer protection provisions. FHA also prepared a model form of Declaration, Bylaws and other documents that were required to be used to obtain FHA insurance.

## **The Horizontal Property Regimes Act**

In 1963 Washington State adopted the Horizontal Property Regimes Act RCW 64.32 using the national act as a model. It provided for:

- the separate description and ownership of individual units,
- the shared or common ownership of common areas,
- the separate taxation of units,
- and the imposition of assessments to pay common expenses, and
- the legal basis for the management of the condominium.

## The Washington Condominium Act

On July 1, 1990 The Washington Condominium Act RCW 64.34 became effective. It was created because development and definitions of condominiums, management of the associations, and consumer protection issues became more complex and not addressed in the 1963 Act.

The new Washington Condominium act provided for the following areas:

- ❑ The development of projects in phases
- ❑ Non-residential and mixed use projects
- ❑ Non enclosed spaces (i.e. marinas or mobile home parks)
- ❑ Developer association control during early marketing phases
- ❑ Alternative methods of allocating among owners
  - a) Association votes
  - b) Expenses
  - c) Repairs
  - d) Conversion from rental to condo status
- ❑ Powers and duties of owner's association (the officers and directors)
- ❑ Rights and duties of owners
- ❑ The relative rights and powers of the association
- ❑ Rights of developers
- ❑ Rights of lenders
- ❑ The administration and management of the condominiums
- ❑ Consumer protection issues particular to condominiums were addressed.

It is important that real estate agents have a working knowledge of the Washington State Condominium Act. It affects development of projects, ownership and the sales of all condominiums in the state.

## Homeowners' Association Law

What if you live in a homeowners' association (HOA) instead of a condominium? HOAs are an entirely different "beast." They are governed by the very short [Homeowners' Associations Act](#), which is found at RCW 64.38. Unfortunately, the HOA Act doesn't really say very much about many of the issues that can come up in running an HOA. Fortunately, associations aren't governed only by the laws they're created under; they are also subject to their own [governing documents](#), including the CC&Rs.

## Reserve Study laws for Condominium Associations

Effective January 1, 2012, changes in Washington's reserve study laws went into effect. These changes, among other things, affect the *content* of reserve studies, add reserve study *reporting requirements* to the budget summary associations must provide to owners, and extend reserve study requirements to HOAs with "*significant assets*."

The Condominium Act requires that "new act" associations (by way of the board of directors) propose an annual budget to its owners. The board sends a summary of the proposed budget to the owners; the association then holds a budget meeting, at which owners are given the opportunity to reject the budget. If the percentage of owners required by the declaration vote *against* the budget, it fails and the association continues to operate on the previous budget.

The reserve study changes do apply to old act condos; however, the changes to the budget process only affect new act condos and HOAs. The changes to the law add a list of required information which must be included in the budget summary sent to owners. Then the owners would receive information about what the reserve study professional was recommending for contributions, what the current contributions were, and what the proposed budget was for their association, and then to highlight what the future looked like for each.

Unfortunately, what was intended to be a simple and practical list of information has expanded to a somewhat complicated list of information that associations must disclose to owners with the budget summary. The list is as follows (from RCW 64.34.308(4)):

- Current amount of regular assessments budgeted for contribution to the reserve account, the recommended rate of contribution from the reserve study, and the funding plan which the recommended rate is based on;
- If additional regular or special assessments will be imposed, the date those assessments are due, the amount of the assessments per each unit per month or year, and the purpose of those additional assessments;
- Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next 30 years;

- If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient funds will be available each year during the next thirty years to ensure that sufficient funds will be available, the approximate dates assessments may be due, and the amount of the assessments per unit per month or year;
- The estimated amount recommended in the reserve account at the end of the current fiscal year based upon the most recent reserve study, the projected reserve account balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;
- The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account balance in each of those fiscal years, and the projected percent funded for each of those years;
- If the funding plan approved by the association is implemented, the projected reserve account balance in each of the next five budget years and the percent funded for each of those years.

## **Washington Uniform Common Interest Ownership Act (WUCIOA) 2018**

In March 2018, the Washington State legislature passed the Washington Uniform Common Interest Ownership Act (WUCIOA) that became effective on July 1, 2018. It provides specific guidance on the rights and obligations of the association and the owners.

It primarily applies to condominium developments and planned communities that are created after the date the act became effective. Small plat communities with 12 or fewer units and annual assessments which don't exceed \$300 per unit are exempt. Pre-existing communities will be governed by existing laws. Their communities have the option of amend their governing documents to bring their community under the authority of the new WUCIOA. There are some provisions that will apply to all common interest communities regardless of when they were created.

There is a new statewide form, the Common Interest Community (CIC) Addendum. Not all properties with a homeowner's association is a common interest community. If the CC&R's were recorded prior to July 1, 2018, then it is NOT a Common Interest Community (CIC). If that is the case, the then Common Interest Community field on the listings should be probably marked 'no' and you do not need to include the CIC form.

If a homeowner's association passes an amendment to opt into the new law, then it would become a CIC.

Under the new law, an association is a Common Interest Community if the CC&Rs, recorded after July 1, 2018, describe both individually owned units and common areas that benefit and are funded by the unit owners. It is irrelevant whether the association serves a condominium, a cooperative or something that looks like a plat (created by subdivision or otherwise).

If listed property is part of a CIC, then listing broker should mark the "Common Interest Community" field on the listing printout as "yes". Moreover, the purchase agreement for that property should include a Form 22CIC controlling delivery of the public offering statement or resale certificate. All Common Interest Communities require delivery of a public offering statement to first-time purchasers and resale certificates to resale purchasers. These requirements will be familiar to real estate brokers who sell condominiums. Although not required by the law, it is likely that Common Interest Communities will need professional management, just as most condominiums already do, to keep up with the disclosure requirements necessary for the sale of homes and other statutory requirements.

The issue that will be most challenging for the brokerage community will be determining whether a property is part of a Common Interest Community. Once HOA's become familiar with this concept, each HOA board or manager should know whether it is or is not a CIC because its operations will depend upon the answer.

If an association is a CIC, then it must be able to deliver resale certificates within ten days of an owner's request and every transaction will be voidable by the purchaser until the resale certificate is received and for five days thereafter. Late delivery of a resale certificate will not cause a closing date extension but if the resale certificate is delivered within five days of closing, then buyer will have the right to void the transaction until the transaction is closed. Buyers have no ability to waive seller's obligation to deliver a resale certificate, even in a competitive market where buyers want to make their offers more attractive. If a seller is led to believe that a buyer has waived the right to receive a resale certificate and thus fails to deliver a resale certificate, then buyer will have a right to terminate the purchase agreement until closing. Delivery of a resale certificate under the new law does not impact a seller's obligation to also deliver a Seller Disclosure Statement. Just as condo sellers today must deliver both a resale certificate and a Seller Disclosure Statement, so must sellers of property in a CIC.

Sales of new construction in a CIC require delivery of a public offering statement. Again, buyers cannot waive seller's obligation to make this delivery. A public offering statement is a document even thicker and more complicated than a resale certificate, describing details of the developers other developments, if any, future plans related to the subject development, common elements, anticipated expenses, existing liens and warranties, limitations on use or sale of the units and many, many other issues related to construction, use and management of property that is part of the CIC. Every purchaser will have seven days to rescind a purchase agreement following receipt of the public offering statement. If a buyer in a CIC receives the public offering statement more than seven days prior to entering a purchase agreement, then a buyer will have no right to cancel after mutual acceptance. This will make it critical for listing brokers to keep records of delivery of a public offering statement to potential purchasers as well as to buyers who have already signed a purchase agreement. Additionally, if a buyer in a CIC receives the public offering statement within seven days of closing, then buyer has the right to extend the closing date in order to capture the full seven day review and cancellation period. (Beware, the law does not say either of these last two items with respect to resale certificates. Delivery of the resale certificate prior to mutual acceptance does not eliminate a resale buyer's five day right to rescind the purchase agreement after mutual acceptance and late delivery of a resale certificate does not give a resale buyer the right to extend the closing date.)

This new law is already creating confusion and is likely to do so for many years to come. Designated brokers, it would behoove you to gain a thorough understanding of this issue and spend time in office meetings conveying information to your brokers. You will probably have to do this more than once. It is critical for brokers to understand the bright line nature of the July 1, 2018 date. Associations that exist by virtue of CC&Rs recorded prior to July 1, 2018 are NOT CICs unless the title report shows an amendment to the CC&Rs after July 1, 2018 by which the association opts into the new law. Said differently, if the title report shows that CC&Rs were neither recorded nor amended after July 1, 2018, then the property cannot be a CIC. If CC&Rs were recorded prior to July 1, 2018 and amended after July 1, 2018, then broker will have to understand the nature of the amendment to know whether the amendment was an "opt in" to the new law or simply a modification of the CC&Rs.

Associations that exist by virtue of CC&Rs recorded after July 1, 2018 are CICs, unless the plat includes 12 or fewer lots and then brokers will have to rely on seller, who may have to consult the HOA, for the answer to the question of whether the property is in a CIC.

It has always been important for brokers to order a preliminary commitment for title at the time the listing is taken and this new law creates one more item that brokers must confirm with the title report. Brokers must locate reference to CC&Rs, if any, on the title report and pay attention to the date the CC&Rs and any

amendments to the CC&Rs were recorded. If nothing related to the CC&Rs was recorded after July 1, 2018, then the property is NOT in a CIC. If recording of the CC&Rs or any amendment to the CC&Rs occurred after July 1, 2018, then broker will have to determine if the association is a CIC.

It is important for brokers to be able to determine if a community is a CIC. If a community is a CIC and broker does not help seller understand the importance of timely delivering the statutorily required documents, seller's transaction will be vulnerable until it closes and if there are association issues that should have been disclosed to buyer but were not, because a required resale certificate or public offering statement was not delivered, then liability could exist for the brokers who failed to recognize the legal requirement for buyer's protection. On the other hand, if broker mistakenly identifies an association as a CIC and creates a false impression in the mind of buyer or seller that seller must provide a resale certificate or public offering statement, then seller will be frustrated and buyer may be angry to discover that association disclosures are not actually forthcoming.

With this basic understanding of WUCIOA, some ask how it is that this law came to be. A short history lesson is instructive. In 2006, a group of Seattle condo lawyers got together to talk about updating the Condominium Act. They called themselves the "Condo Club." They proposed legislation to improve condo law. Legislators considered the proposal and the need for all home owner associations to be regulated by law that requires accountability to owners. After years of work by the Condo Club, Legislators and stake holder groups, WUCIOA was passed during the 2018 Legislature. It will be a difficult law for many plat communities, created after July 1, 2018, to embrace and administer.

# Shared Ownership and Definitions

There are other forms of shared ownership. They can include a Cooperative and a Planned Unit Development, as well as, a condominium. There are also co-housing projects being developed.

## Condominium

The definition of a condominium from the Condominium Act RCW 64.34

“Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interest in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter.

The definition of an “Apartment” under the Horizontal Regimes Act is as follows:

“A part of the property intended for any type of independent use, including one or more rooms or spaces located on one or more floors (or part or parts thereof) in a building, or if not in a building, a separately delineated place of storage or moorage of a boat, plane or motor vehicle, which has a direct exit to a public street or highway, or to a common area leading to such street or highway. The boundaries of an apartment located in a building are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the apartments includes both the portion of the building so described and the air space so encompassed. If the apartment is separately delineated place of storage or moorage of a boat, plane or motor vehicle, the boundaries are those specified in the declaration.”

The owner of a condominium apartment holds fee simple title to the unit/ apartment. The owner also can have an undivided share in the common areas.

It may be held by one or more persons in any type of ownership or tenancy recognized by state law. The unit can usually be sold or transferred to whomever the owner chooses, unless the condominium association provides for a right of first refusal. The owner of the unit can finance the unit using conventional or government financing. Real estate taxes are assessed and collected on each unit as an individual property. The taxes also include a percentage of the taxes owned on the common areas. Default in the payment of taxes or a mortgage loan by one unit owner may result in a foreclosure or trustees sale of that owners unit and does not affect the other unit owners.

The condominium form of ownership can be used for home ownership. It can include a building with 2 or a hundred apartments designed for residences. It can also include a development of homes that are standing alone but part of a condominium development.

A condominium form of ownership can be used for any of the following but not limited to:

- Office complex,
- Boat moorage,
- Houseboat moorage,
- Airplane storage,
- Individual storage units.

## **Common Areas**

The condominium common areas are assigned a specific percentage of interest to each unit. The percentage can be based on the value of the individual unit in relation to the total value of the property. The percentage can also be just an equal interest for each unit.

Common areas can include a lobby, grounds, pool, dock, hallways, and elevator. All of the unit owners have the right to use the common areas. Sometimes there is limited use common areas where they can only be used by certain unit owners.

An owner cannot transfer or sell his percentage in the common area to another.

## **Management and Fees**

An association of unit owners administers a condominium property. A Board of Directors may govern the association. It may manage the property on its own or hire a property manager.

The Association is typically responsible for the maintenance, repair, cleaning and sanitation of the common areas and structural portions of the property. It must also maintain fire, extended-coverage and liability insurance.

The expenses of maintaining and operating the building are paid by the unit owners in the form of fees and assessments. Both fees and assessments are imposed and collected by the owners association. Recurring fees are paid by each unit owner. The size of the individual owner fee is determined by the size of his or her unit.

Assessments are special payment required of unit owners to address some specific expense, such as a new roof, painting or paving. Assessments are structured like condo fees. Owners of larger units pay proportionately higher assessments than owners of smaller units.

## Cooperative Ownership

The cooperative form of ownership originated before the condominium laws. It is more common in the eastern part of the United States, though there are several dozen Co-ops in the Puget Sound area. It is important for real estate agents to know the differences.

### Cooperative Definition

A cooperative is a type of shared ownership whereby the owners own a percentage of the total property instead of an individual unit. In a cooperative, a corporation holds title to the land and the building. The corporation then offers shares of stock to prospective tenants. The price of the apartments becomes the price of the stock. The purchaser becomes a shareholder in the corporation and its only asset is the building. The purchaser receives a proprietary lease to the apartment for the life of the corporation. Because stock is personal property, the cooperative tenant-owners do not own real estate, as is the case with condominiums. Instead, they own an interest in a corporation that has the asset...the building.

### Management and Fees

The operation and management of a cooperative are determined by the corporation's bylaws. Through their control of the corporation, the shareholders of a co-op control the property and its operation. They elect officers and directors who are responsible for operating the corporation and its real estate assets. Individual shareholders are obligated to abide by the corporation's bylaws.

The corporation incurs costs in the operation and maintenance of the entire parcel, including both the common property and the individual apartments. These costs include real estate taxes and any mortgage payments the corporation may have. The corporation also budgets funds for such expenses as insurance, utilities, repairs and maintenance, janitorial and other services, replacement of equipment and reserves for capital expenditures. Funds for the budget are assessed to individual shareholders, generally in the form of monthly fees similar to those charged by a homeowners association.

When someone defaults on a maintenance payment the burden of the defaulted payment in a cooperative falls on the remaining shareholders. Each shareholder is affected by the financial ability of the others. There are many lending institutions that view the shares of stock as acceptable collateral for financing.

An important issue in most cooperatives is the method by which shares in the corporation may be transferred to new owners. For instance, the bylaws may require that the board of directors approve any prospective shareholders. Approval of prospective tenants by the board of directors frequently involves financial evaluation. The board of directors cannot turn down a prospective tenant-owner because they are a member of a protected class in the local, state or federal laws

Examples.. there are several more found on the internet.

The Apex is a corporation formed to own and operate a housing cooperative at First Avenue and Bell Street in downtown Seattle. The purpose of the Apex is to provide its members with housing and community facilities on a nonprofit basis consonant with the provisions set forth in its Articles of Incorporation and Bylaws, and where possible, to provide such to the benefit of low income households.

Hadley House Inc. (Residential co-op) We were the first co-op in Seattle built in 1960, with 43 units. We are located at 919 2nd Ave West. (Lower Queen Anne). Our shareholders elect a board yearly. We have an on-site building Manager. We have a view of the Space Needle and the Bay with a roof deck, Social Room/Library. We maintain a resident-only social networking web site. This allows everyone to stay in touch with everything that is happening in the building, with quick reference to meeting minutes and calender of events here. Units that are for sale, can be found through your realtor. All residents must go through a board interview before moving in.

Tashiro Kaplan is a newly instated Artist live/work housing with 50 units, 5 Art Galleries (Soil, Platform, Garde Rail, Davidson and G. Gibson), 15 work only studios, 4 Culture's main headquarters, All City Coffee (Great for coffee, beer, wine and good art) and a jazzy Graphic Design firm: Design Commission.

### **Planned Unit Development**

A buyer in a Planned Unit Development receives ownership of the unit and the land. They receive automatic membership in the association that owns the streets, pool clubhouse and charge a fee for maintaining the common areas. In addition, the association enforces the rules in the CC&R's.

# Board of Directors

Except as provided in the declaration, the bylaws, subsection (2) of this section, or other provisions of this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors are required to exercise: (a) If appointed by the declarant, the care required of fiduciaries of the unit owners; or (b) if elected by the unit owners, ordinary and reasonable care.

(2) The board of directors shall not act on behalf of the association to amend the declaration in any manner that requires the vote or approval of the unit owners pursuant to RCW [64.34.264](#), to terminate the condominium pursuant to RCW [64.34.268](#), or to elect members of the board of directors or determine the qualifications, powers, and duties, or terms of office of members of the board of directors pursuant to subsection (7) of this section; but the board of directors may fill vacancies in its membership for the unexpired portion of any term.

(3) Within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

# New Construction

The Northwest is realizing an active market for new development. The condominiums range from small affordable housing units to large luxury homesites with views and/ or moorage. When a developer builds a condominium development the condominium status is established by recording a condominium declaration. The developer is called the “declarant.” The purchaser must receive a Public Offering Statement with any new and conversion condominium. Local zoning ordinances and other land use laws may not prohibit the condominium form of ownership. Local government cannot make requirements on condominiums that do not also apply to identical developments under a different form of ownership such as an apartment.

## Public Offering Statement

The Condominium Act states that the Public offering statement shall include:

- (a) The name and address of the condominium;
- (b) The name and address of the declarant;
- (c) The name and address of the management company, if any;
- (d) The relationship of the management company to the declarant, if any;
- (e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;
- (f) The nature of the interest being offered for sale;
- (g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;
- (h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;
- (i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;
- (j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;

- (k) A list of the limited common elements assigned to the units being offered for sale;
- (l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;
- (m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;
- (n) The status of construction of the units and common elements, including estimated dates of completion if not completed;
- (o) The estimated current common expense liability for the units being offered;
- (p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;
- (q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;
- (r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;
- (s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;
- (t) If the condominium involves a conversion condominium, the information required by RCW [64.34.415](#);
- (u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;
- (v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;
- (w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;
- (x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW [64.34.435\(2\)\(b\)](#);
- (y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;
- (z) A brief description of any construction warranties to be provided to the purchaser;

- (aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;
- (bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;
- (cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;
- (dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;
- (ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW [64.34.420](#), including applicable time frames and procedures;
- (ff) Any reports or statements required by RCW [64.34.415](#) or [64.34.440](#)(6)(a). RCW [64.34.415](#) shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in \*RCW [64.34.020](#)(11);
- (gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;
- (hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;
- (ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;
- (jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant;
- (kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995;
- (ll) A notice that is substantially in the form required by RCW [64.50.050](#);
- (mm) A statement, as required by RCW [64.35.210](#), as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty;

(nn) A statement that the building enclosure has been designed and inspected as required by RCW [64.55.010](#) through [64.55.090](#), and, if required, repaired in accordance with the requirements of RCW [64.55.090](#); and

(oo) If the association does not have a reserve study that has been prepared in accordance with RCW [64.34.380](#) and [64.34.382](#) or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element."

## **Copies of Documents to be Included**

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more, the association's current reserve study, if any, and the inspection and repair report or reports prepared in accordance with the requirements of RCW [64.55.090](#).

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

## Answers in the Public Offering Statement

*Common Questions a buyer should ask about new construction condominiums.*

Is there an option to extend the closing date? A penalty?

When will construction be completed in all phases?

How much money is the developer going to fund the new homeowners association when it is turned over? When will the association take over?

What is included in the assets of the homeowners association?

What are the permitted uses allowed in the development?

Is there a separate room for guests available?

What type interest is the buyer receiving (fee, leasehold, etc.)? What is best for your buyer? Do they understand the differences?

Are the parking and/or storage spaces deeded or just assigned?

# Resale Condominiums

The sellers of condominiums have legal requirements and disclosure to provide to the purchasers. This is done with a resale certificate, which includes documentation about the condominium, management, fees and assessments.

The resale certificate requires the last minutes of meetings of the association. But, it is important as a prospective buyer to look into minutes for the past year and request information on committees. There may be issues that the association has been discussing but have not been voted upon.

## Resale Certificate

Whenever a condominium unit is sold in Washington State, a resale certificate must be prepared disclosing a long list of information which you will find in [RCW 64.34.425](#). The required facts include (but are not limited to) information regarding the amount of the monthly assessments, any upcoming special assessments, the association's annual financial statement, and copies of the association's governing documents.

A resale certificate is required to be signed by an officer or authorized agent of the association and the seller. The maximum allowable fee for resale certificates will be going up to \$275, effective in July 2011.

Please note that although the maximum *allowable* fee has increased to \$275, that does not mean your association should automatically begin charging that amount. All fees charged by condominium associations must be reasonable, and that standard remains in effect despite this change in the law.

How do you know if your resale certificate fee is reasonable? The fee charged by your association should be reasonably related to the actual costs incurred by the association in preparing the resale certificate. For self-managed associations where a Board member is preparing the resale certificate, the cost may differ from the cost incurred by an association that is not self-managed and which has the resale certificate prepared by a professional.

The association is to provide it within 10 days after a request by a unit owner. The purchasers contract is voidable until the certificate has been provided and for 5 days thereafter or until conveyance, whichever comes first.

According to the Condominium Act 64.34.425 regarding Resale of Unit

Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under RCW [64.34.400\(2\)](#), a unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a resale certificate, signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate, containing:

- (a) A statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;
- (b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;
- (c) A statement, which shall be current to within forty-five days, of any common expenses or special assessments against any unit in the condominium that are past due over thirty days;
- (d) A statement, which shall be current to within forty-five days, of any obligation of the association which is past due over thirty days;
- (e) A statement of any other fees payable by unit owners;
- (f) A statement of any anticipated repair or replacement cost in excess of five percent of the annual budget of the association that has been approved by the board of directors;
- (g) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;
- (h) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;
- (i) A balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which shall be current to within one hundred twenty days;
- (j) The current operating budget of the association;
- (k) A statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;
- (l) A statement describing any insurance coverage provided for the benefit of unit owners;
- (m) A statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;

(n) A statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;

(o) A statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;

(p) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof;

(q) A copy of the declaration, the bylaws, the rules or regulations of the association, the association's current reserve study, if any, and any other information reasonably requested by mortgagees of prospective purchasers of units. Information requested generally by the federal national mortgage association, the federal home loan bank board, the government national mortgage association, the veterans administration and the department of housing and urban development shall be deemed reasonable, provided such information is reasonably available to the association;

(r) A statement, as required by RCW [64.35.210](#), as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and

(s) If the association does not have a reserve study that has been prepared in accordance with RCW [64.34.380](#) and [64.34.382](#) or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element"

(2) The association, within ten days after a request by a unit owner, and subject to payment of any fee imposed pursuant to RCW [64.34.304](#)(1)(I), shall furnish a resale certificate signed by an officer or authorized agent of the association and containing the information necessary to enable the unit owner to comply with this section. For the purposes of this chapter, a reasonable charge for the preparation of a resale certificate may not exceed two hundred seventy-five dollars. The association may charge a unit owner a nominal fee for updating a resale certificate within six months of the unit owner's request. The unit owner shall also sign the certificate but the unit owner is not liable to the purchaser for any erroneous information provided by the association and included in the certificate unless and to the extent the unit owner had actual knowledge thereof.

(3) A purchaser is not liable for any unpaid assessment or fee against the unit as of the date of the certificate greater than the amount set forth in the certificate prepared by the association unless and to the extent such purchaser had actual knowledge thereof. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchaser's contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first.

## Answers in the Resale Certificate

*Common questions buyers may or should ask:*

Are pets allowed? If so, what size and kinds are limited? Can a “no pets” policy be overcome? (upcoming board meeting and change of rules)

Is renting of unit allowed? If so, how many are now rented? Is there a quota? Should there be a quota?

Are there special allowances for hardship cases for rentals? (Short term job transfer)

Does the association have a right of first refusal for either selling or renting? (There are often caps to the number of rentals allowed)

What type interest is the buyer receiving (fee, leasehold, etc.)? What is best for your buyer? Do they understand the differences?

Are the parking and/or storage spaces deeded or just assigned? How does this affect your client and the pricing of the unit? Could they change over time?

What about guest parking? What is available? Are there rules? Permits? Time limits?

Does the association have professional management? Do they have E&O insurance?

Does management attend the association meetings? What are their duties?

Does declarant still own any units or areas leased to the association?

Does the declarant own any personal property on site at the time of sale that may later be removed?

Does the declarant have a long term management contract or consulting fee? Do you want to be bound by this?

Does the association limit the age for children? Is it housing for seniors? (Are these legal under state and federal laws?)

Are there any other rules or regulations that may affect the use of the unit? (home office, noise, remodeling the interior, window coverings)

Are there special move-in or move-out fees? Who pays? Special days or times?

Are there any nearby environmental issues that may affect the association?

Does the association have a “Reserve Replacement Study”? Is it funded?

Are there any future assessments that are likely to occur? Have they been discussed?

Are the past minutes of board meetings available?

# Carbon Monoxide Detectors

Washington's carbon monoxide alarm law was passed in 2009, requiring that all buildings classified as residential occupancies (which includes condominiums) be equipped with carbon monoxide detectors by **January 1, 2013**. See [RCW 19.27.530](#) for the full text of the law.

A carbon monoxide detector is a device that detects the presence of carbon monoxide gas in order to prevent carbon monoxide poisoning. Carbon monoxide poisoning is extremely dangerous and can cause permanent injury or even death. Because carbon monoxide is odorless and colorless, it is not ordinarily detectable without a specialized detector. Symptoms of exposure are similar to the flu.

The Washington Administrative Code (WAC) section [51-54-4600](#) specifies that the carbon monoxide detectors must comply with [Underwriter's Laboratory Standard 2034](#), which sets standards the detectors must comply with. The detector you purchase should specify on the packaging whether it complies with UL 2034. It should be battery operated or can plug in with a battery backup.

It is not clear from the law whether the association or the individual unit owners are responsible for installing the detectors. To minimize the risk that the association will not be in compliance, condominium associations should encourage unit owners to install them. Non-compliance could potentially result in liability for the condominium association. Carbon monoxide alarms can currently be purchased for around \$25-40.

# Marketing Condominiums

The listing and marketing of condominiums can be similar in many ways to marketing single family houses; the differences can also be extreme. The sale includes a separate unit. In addition, the agent is selling the complex and the management.

## Signage

Local jurisdictions have regulations regarding the placement of signs. In addition, homeowner associations may also have certain restrictions regarding signage. (no signs, signs in window only or a generic “Contact Your Broker” sign) It is important to be aware of this when developing and presenting your marketing plan.

*How does the agent find out about the sign restrictions?*

## Access

Access is an important factor in the sale of any property. Even the best of homes needs to be previewed and shown to be sold. Again, the agent should be aware of any access restrictions (especially in high security buildings) that may affect the ability to show a unit. These restrictions could affect market time, effectiveness of open houses and the agent’s time spent in marketing the property.

*Does the complex allow a key box for access to the building?*

*How can the buyer view the amenities? Is there a separate key?*

*Is guest or agent parking available?*

## Pricing

It would seem that in an active market, pricing a condo should be a snap. You are dealing with many similarities and usually have great comps to work with. The agent should be aware, however, that the sales price of condos within a given building can be consistent, the rule of “substitution” can often play an important role in the pricing plan. New condos being built “right down the street” at a lower or higher price may influence the price.

*What is the assessed value of the unit?*

*What is the percentage of common ownership?*

*What are the sales trends in the complex?*

## **Open Houses and Brokers Open**

Often the association may have rules regarding open houses because of security issues for the existing owners.

*Are open houses allowed?*

*What are the restrictions?*

## **Advertising**

Because of the nature of condominiums there are often a tendency for a complex to develop a rather narrow demographic profile. It is important when advertising a unit or a complex that an agent does not “target” a market and therefore show a limitation or a preference because that would be in violation of Federal, State and local fair housing and discrimination laws.

With low end condo sales the buyer is typically looking for economy and value, whereas the high end buyer is often looking for privacy, amenities and something they cannot get in a single family home purchase. When advertising the condo it is important to include the amenities and features of the complex.

*What are the selling features of the unit and complex?*

## **Inspections**

Inspections are recommended for condos like any other purchase of real property. The shared responsibility of repairs with other owners does not prevent a potential buyer from future costly repairs. It is important that the inspector is familiar with condominium construction and not only inspect the unit but have access to and inspect the community systems of the complex such as electrical, plumbing, central heating or water and roof.

*What kind of structure is the building? Steel and concrete or wood?*

*What central systems are there? Are these included in the homeowner dues? Are they leased or owned?*

*Are any of the major common structures in need of repair in the near future?*

# Documents and Contracts

Sales of condominiums require a different set of documents and contracts than those required for a single family home. This is because the ownership can result in a unit plus a percentage of the total common area.

The condominium laws require that a Public Offering Statement be provided to purchasers of new or conversion condominiums and a Resale Certificate be provided to purchasers of resales. These require that certain documents be attached.

The seller of a condominium is still bound by the Property Information Disclosure form as required by statute unless they meet one of the exceptions.

If you are selling a condominium in WA state, they you need to be familiar with the requirements and the contracts.

## Conclusion

Condominium sales are different than sales of single family homes. The differences lie in the laws, the ownership, the management, the taxation, and the restrictions.

Condominium sales are strong in the Puget Sound Region and will continue to remain that way through the new Millennium.

# Conveying Condo's

Use the answer sheet at the end of the quiz! Thanks

1. The act that was adopted in 1963 that provided for the separate ownership of individual units is called \_\_\_\_\_
2. A boat moorage can be a form of \_\_\_\_\_ ownership.
3. In 1990 the \_\_\_\_\_ Act was passed.
4. A condominium form of ownership can be used for non enclosed spaces such as \_\_\_\_\_.
5. The owner of a condo holds \_\_\_\_\_ title.
6. The owner of a condominium unit most often has a percentage of ownership of the \_\_\_\_\_.
7. Name three different types of properties that can be developed as a condominium. \_\_\_\_\_
8. A pool can be considered \_\_\_\_\_ so that each unit has a percentage of ownership.
9. A fee or \_\_\_\_\_ can be imposed on the unit owners of condominiums for repairs to the building.
10. Real estate taxes are assessed and collected on each condominium unit as an individual property. **T or F**
11. The boundaries of an apartment located in a building are the **interior/ exterior** (choose one) surfaces of the perimeter walls
12. The elevator can be considered a common area. **T or F**
13. In a cooperative type of ownership, the owners own a percentage of the total property. **T or F**
14. A board of directors of a cooperative can have the power to approve or not any prospective shareholder.
15. A prospective shareholder can be turned down by the Board of Directors of a cooperative because they have children. **T or F**
16. In a cooperative, each shareholder is affected by the financial ability of the others when it comes to paying for repairs. **T or F**
17. The board of directors is to act on behalf of the \_\_\_\_\_.
18. A purchaser of a condo must receive a \_\_\_\_\_ prior to buying a new condominium.
19. The developer of a new condominium is called the \_\_\_\_\_ and must record a condominium declaration.
20. A purchaser must receive a list of the 5 most recent condo projects completed by the declarant within the past 5 years. **T or F**
21. A purchaser of a new condo must receive a list of any building code violation citations which have not been corrected. **T or F**
22. The following notice must be on the Public Offering Statement for **new / resale** (check one) condos. "This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information and create binding legal obligations. You should consider seeking the assistance of legal counsel."
23. List 4 documents that must be included with the Public Offering Statement. \_\_\_\_\_

List three answers that might be found in the Public Offering Statement

- 24.
- 25.
- 26.
27. When a condominium is re-sold in Washington State, the seller must provide the buyer with a \_\_\_\_\_
28. The certificate is required to be signed by an officer (or authorized agent of the association) and the seller. **T or F**
29. There **is or is not** (choose one) a maximum allowable fee that can be charged to provide a resale certificate?
30. The purchaser of a resale condominium has the right to receive a copy of the association \_\_\_\_\_ study.
31. A parking space that is deeded and not assigned belongs to the owner of the condo.
32. All residential properties including condominiums must be equipped with carbon monoxide \_\_\_\_\_.
33. Effective on this date \_\_\_\_\_, changes in Washington's reserve study laws went into effect.
34. A condominium board of directors is required to propose an annual \_\_\_\_\_ to the owners.
35. Who has regulations over where real estate signs can be placed on condos. \_\_\_\_\_
36. It is important to know what the condominium rules requires for condominiums and keyboxes. **T or F**
37. It is recommended that any purchaser of a condominium pay for a good \_\_\_\_\_ prior to closing.
38. The documents for the purchase and sale of a condominium **are or are not** (choose one) the same as for a residential home.
39. The seller of a condominium is not required to provide a property information disclosure. **T or F**
40. The value of a condominium is directly affected by the sale of another unit in the complex. **T or F**

*As a part of this class you are to click on a link and go to learn more!*

Washington Condominium Act RCW 64.34 <http://apps.leg.wa.gov/RCW/default.aspx?cite=64.34>

Horizontal Property Regimes Act RCW 64.32 <http://apps.leg.wa.gov/RCW/default.aspx?cite=64.32>

*The new condominium act WUCIOA More information available from Annie Fitzimmons from the WA Realtors.*

*Use the Answer sheet below for your answers to the quiz! Thanks*

## Quiz for Conveying Condos

You must attach the Evaluation to this Answer Sheet to receive clockhours.

1		31	
2		32	
3		33	
4		34	
5		35	
6		36	
7		37	
8		38	
9		39	
10		40	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			

I attest that I have read the materials and have answered the questions. The mandatory evaluation is attached!

Print Name \_\_\_\_\_ Company \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

PROFESSIONAL Direction, 13148 Holmes Pt Dr NE, Kirkland WA 98034 Email: [clockhours@gmail.com](mailto:clockhours@gmail.com)

## Mandatory Evaluation

Did you read the material in the booklet on this date? YES / NO

Did you complete the quiz and attach answer sheet? YES / NO

Did you pay Tuition using the link on the website? YES / NO

Did you fill out and sign this form? YES / NO

Why did you choose to take this course? Topic? Time? Cost? Ease? Other?

A "clock hour" is 50 minutes. This 3 hour class should take about 2 hrs 30 min. How long did it take you to complete the course? \_\_\_

	No			Yes	
Will the material you learned improve your performance?	1	2	3	4	5
Were the course materials easy to follow?	1	2	3	4	5
Were the course materials relevant to your profession?	1	2	3	4	5
Were your objectives met by attending the class?	1	2	3	4	5

What are 3 things that you learned from the course?

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

Conveying Condo's		
Print Name CLEARLY	Signature	Company
Address	City Zip Code	Phone
Email		
License Renewal Date		Date class taken

*Thanks for taking this class! I really appreciate the agents that take clockhours from my school! I am always working on my classes and writing new ones!  
Thanks, Natalie*

**Professional Direction, 13148 Holmes Pt Dr NE, Kirkland, WA 98034 email: clockhours@gmail.com  
www.clockhours.com**