

SENIOR CONDO PURCHASES, PART THREE: A WORLD OF FINANCIAL EXPLOITATION

By Donie Vanitzian, BA, JD, Arbitrator
Special to Senior Life

“We pay our money and keep our mouths shut. Never in a million years did we think we would be spending our golden years mired in paperwork and excessive fees, and under constant threat of being sued,” Corkey Eley, Leisure World, Laguna Woods.

Persons over the age of 50, who are looking for stable, uncomplicated living arrangements, make attractive targets for the financial schemes of condominium developers and operators. Even when seniors are determined to protect themselves and their purchases, they can easily become sidetracked from focusing on the property transaction itself. Events like social gatherings, parades and travel clubs, flanked by riding trails, tennis courts and hot tubs, throw the buyer off the scent of consequences linked to deed-restricted purchases.

Behind the façade of conforming buildings and well-maintained greenbelt beautification areas that may have originally helped qualify the developer for millions of dollars in state subsidies, homeowner associations are not the idyllic places they appear to be. Instead, they represent a restricted living situation that often turns predatory. The quality of life is dependent on how much power the board and management wish to assert over the owner, and how much money they can arbitrarily demand. The wrong mix can make life a living hell and create personal financial devastation.

These risks continue to be largely underestimated, undisclosed and unabated. While some seniors are happy to pay what they are told, shut the door and go shopping, others, like Carol Murata of Irvine, who want to know what is going on, complain of harassment and sabotage by management companies and association representatives intended to, “silence and prevent us from seeing all the records. It just burns me up,” Carol fumes.

That frustration leads to desperation in communities where owners describe experiences with management as meting out terror. Noni Eley describes her golden years retirement in a condo as, “the biggest nightmare I’ve ever experienced where seniors have no rights.” Still, seniors are hesitant to report abuse.

HAND OVER YOUR MONEY OR MOVE

“Sadly, many investment advisors who are unfamiliar with the pitfalls of deedrestricted property include a condo purchase as part of the senior’s investment diversification planning,” explains Real Estate Broker and Personal Financial Planner, Thomas Foster. “Most senior condo purchases are solicited using the lure of a variety of activities and promises of a better quality of life. Little thought is given to one’s actual income versus costs controlled by an entity called the ‘association,’ or to the fact that owners must continue to pay for all association amenities whether they use them or not. Such outflows can include fees, assessments and other costs that can be arbitrarily increased at any time without limitation. When purchasing into an association or community environment, seniors requiring financial stability have no guarantees.”

Without meaningful laws protecting owners, many associations have become the last free bastion of no accountability while they methodically deplete seniors of their resources. There is no other type of home ownership where owners have the privilege of handing over their money whenever asked, and not having an “absolute” right to know where that money is going. The

money taken belongs to those who can least afford to lose it, and are too frail or incapacitated to effectively protect themselves against victimization.

THESE DAYS, THERE ARE SENIORS AND THEN THERE ARE SENIORS

One octogenarian recalls when “being a senior meant you had to be over 65 years old and housing was affordable for fixed income seniors. But the qualifying age for many senior developments has been lowered to age 50, to attract wealthier baby boomer buyers. As a result, our costs have gone up.”

If the association has a “trust-fund-baby” board of directors, finances are the last thing on that board’s mind. The younger generation’s seemingly diminished concern for money may be due to the ease with which they can make or borrow money when needed. Numerous older residents, however, are not as fortunate, and many wind up moving from one community to another seeking a mix of demographics and affordability. Unfortunately, with each move comes an additional depletion of usually irreplaceable funds. Because these perils of deed-restricted living are not fully disclosed in condo sales brochures or during escrow, it is understandable that buyers, but seniors in particular, fail to comprehend that situations might get so bad as to force them to move overnight. They want to believe this will never happen to them or, if it does, they will be able to quickly sell and move. Not so. Owners are finding themselves in positions where they must suddenly empty the contents of their home and move. Seniors told me they “hope they die first.”

ELDER ABUSE, OR KEEP QUIET AND KEEP PAYING

Although owners personally bankroll the association, an association’s funding and spending philosophy can often change from board to board. Accountability is a problem. It easily becomes irrelevant whether money collected for a particular reason can be diverted for another purpose or not used at all. However, when you move, your monetary contributions stay in the association’s coffers.

The American Psychological Association (APA) warns that elder abuse includes just this kind of financial exploitation. The National Committee for Prevention of Elder Abuse (NCPEA) warns of unscrupulous professionals and businesspersons, or anyone posing as such. They may overcharge for services or products, use deceptive or unfair business practices, or “use their positions of trust or respect” to gain access or compliance. Those who are ill, frail, disabled or depressed are at greater risk of abuse. Because most seniors don’t want to make waves, intimidation and financial exploitation are achieved with little effort.

“When we question invoices we don’t owe, we’re told, ‘pay it and argue later.’” Dorothy, Riverside. For older seniors, there may not be a “later.” Many fail to realize they may not owe money, but pay the bill anyway.

“We ask for information regarding finances and accounting anomalies; the board stalls, ignores us and says ‘we’re looking into it,’ but we never get anywhere. It doesn’t matter if we write three or three hundred letters, we get no response.” Helen and Frank Schroeder, Torrance.

After stalling tactics run out, seniors are hit where it hurts the most, their wallets. Owners who pursued their statutory rights to inspect books and records reported that boards and management destroyed or fabricated documents and then lied to cover up their actions and

mislead law enforcement. Retaliation against owners followed. Seniors who persist on enforcing their rights can be ostracized, labeled “troublemakers,” given the silent treatment, and ignored by management and boards. These are painful and unhealthy experiences. Seniors who are intentionally excluded or shut out by their peers, or those in control, lose friendship and the ability to exercise direction over their home, finances and living conditions.

WHEN SENIORS BECOME SITTING DUCKS

Some seniors do not realize the true value of their total assets and fail to adequately protect themselves. The APA and NCPEA recognize that many seniors are dependent on others for help. They warn of so-called “helpers” or those perceived to be “in charge” or “running the place.” With nothing more than status and trust, these individuals gain access to homes and assets where they can exercise significant influence over the older person. In fact, community environments encourage such “dependence.” Instantly in many cases, because of their position of trust, board directors and management vendors are given access to cash, checks, accounts and personal information about residents. The relationship becomes personal because these entities are on a first name basis with residents. Those most adept at perpetrating abuse and deceit are usually found in positions of trust, and they are also typically “very nice.”

Even when minimal protections exist, owners are unable to enforce them. One senior was injured late at night when he returned from work. He was brutally assaulted and battered by association directors in his own driveway. Bloody, he dialed 911 on his cell phone. His crime? He exercised his legal right to obtain copies of the association’s insurance policies. The board’s personally delivered pugilistic message: don’t ever send the agent or board a signed, return receipt for insurance policies again, you’re not getting them, so stop asking!

The failure of seniors to effectively assert their rights results in the elevation of power, control and domination by boards and management, culminating in a sanctioned exploitation of those who are most defenseless. Collectively, this ruling elite disenfranchises those in the minority while constituting an overt and unlegislated force of domination.

BETRAYAL BY PEERS

All too often seniors sitting on governing boards are themselves incapable of conducting meaningful business or comprehending documents and commitments that will bind all owners forever. Still, they cling to the seat of power by getting elected to the board. This presents an opportunity for unscrupulous vendors and advisors to deviously control the association from the sidelines. One owner makes sure her husband is on the board, “playing CEO with the other nonviable, unemployed, and retired, ex-CEOs. It makes him feel good and gets him out of the house,” she says. The wife of an unsuccessful retired used boat salesman turned career board member, says, “He’s always wanted to be a CEO but never had the education.” Another senior admits her husband “is in the first stages of Alzheimer’s disease, but being on the board gives him something to do.” Unapologetically, she says, “He votes however the management company or directors tell him to vote.” Actions of directors like these are financially devastating to owners and can erode equity that can never be recovered.

In the process, a once revolutionary bastion of so-called “affordable” housing has degenerated to an embarrassing and shameful ruling class of boards, management, vendors and toothless legislation. That governance is sustained not by popular acceptance, but by the agency of terror over those who can least afford it.