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## Property Management

### Understanding condo, loft coverage

**D**owntown Denver Partnership records show that as of August there were nearly 13,000 apartment, condo and loft units in the city center, with 5,616 of those being for-sale units. In multi-family buildings, such as condo developments or the new lofts that dot the downtown Denver area, owners, property managers and developers often share one thing in common: a misunderstanding about who owns and insures which part of the building.

These days, insurance agents are becoming more selective about whom they insure — in part because insurance companies, too, are growing more cautious about the projects for which they'll offer coverage. Those decisions are based on skyrocketing reinsurance market costs after 9-11. Most likely, reinsurance costs won't decline anytime soon, following this year's record onslaught of hurricanes in the American southeast. Recent lawsuits against the reinsurance market just make the environment more complex — and expensive.

To further complicate matters, while most property developers are on the up and up, a few bad seeds have always plagued the industry. These few disreputable developers form lim-

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**Makey Towne**  
Senior account executive, Moody  
Insurance Agency, Denver

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ited liability companies to fund a development, and then dissolve the LLC — leaving no one who can be held responsible for shoddy workmanship or even something as apparently minor as unclear paperwork.

Particularly during the booming 1990s, many would-be developers jumped into the real estate market and flipped old buildings quickly. Today, unfortunately, some owners — many of whom were young, first-time homebuyers — are learning that what they thought was a complete revamp of a property simply meant the developer installed new countertops and a fresh coat of paint, leaving unit owners and property managers with a headache-inducing slate of problems with plumbing, electrical systems or other infrastructure.

#### How Multiunit Ownership Works

In a for-sale multifamily development, typically, the homeowners association owns the building. In theory, indi-

vidual unit owners own the "airspace" within their property, not including walls and permanent fixtures. Loft developments can be a bit different. Usually, original loft owners purchase unfinished space. Therefore, unit owners possess the improvements within their unit.

For unit buyers, developers and property managers alike, the most important document that can iron out misunderstandings is the condo declaration. Each document is different. Some stipulate that unit owners are responsible for seemingly built-in fixtures such as cabinets and drywall. Other declarations place the onus for "attached" property on property managers.

Most importantly, when it comes to insurance, policies don't necessarily match up with condo declarations, which are written by attorneys who represent the property managers or developers. The master policy insures the association and defines what property the association owns and has responsibility for, while individual owners' policies protect individual property. A gap can exist between the two. Unit owners, in particular, can have different perceived and actual legal responsibility.

#### Working Out the Details

Traditionally, the two insurers have been able to work out any disputes. Today, however, with reinsurance costs shooting up and new high-deductible policies becoming more common, disputes can be contentious.

There isn't enough time in the world for homeowner's insurance agents to learn each and every possible permutation of a condo declaration. So, the responsibility falls to property management companies to thoroughly review a property declaration and determine how insurance coverage matches the declaration.

The next step is providing clear communication to unit owners as to their responsibilities. It's a good idea to develop a manual outlining property rules and guidelines. Within the manual, insurance coverage responsibilities should be specifically delineated for unit owners and for the property management company or homeowners association.

Talk to your insurer to clarify any questions about your policy. Your agent should be able to work with you, as well, to develop documentation to explain to unit owners their responsibilities. Putting definitions in writing now can save headaches — and disputes — in the future.▲