

Required Disclosures to Buyers of Resale Condominium Units in Florida

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My colleague, [Sharon Zuccaro](#), previously blogged about [Tips to Avoid Common Mistakes on Florida Homeowner Association \(“HOA”\) Disclosures](#). As Sharon pointed out, sellers of homes within HOAs are not required to deliver copies of the HOA's governing documents to purchasers, but are required to provide a Disclosure form. The Condominium Act provides different disclosure requirements for non-developer sellers of condominium units.

Disclosure Required

The buyer of a condominium unit from an individual is entitled to receive copies of certain governing documents at the seller's expense, *if the buyer so requests in writing*. If such request is made, the buyer may cancel the contract for the sale of a condominium unit within 3 days, excluding Saturdays, Sundays and legal holidays after the contract was executed by the buyer and the buyer has received a current copy of the declaration of condominium, articles of incorporation, bylaws, and rules of the association, a copy of the most recent year-end financial report and frequently asked questions and answers document, and a copy of the condominium governance form prepared by the Division of Florida Condominiums, Timeshares and Mobile Homes.

Florida Statute Section 718.503(2) requires that each contract for the resale of a residential condominium unit contain one of two disclosures in "conspicuous type" (defined as bold type in capital letters no smaller than the largest type, exclusive of headings, on the page on which it appears and, in all cases, at least 10-point type, and separated on all sides from other type and print). The specific language is found in the statute, but the first clause states that the buyer acknowledges that he has been provided with the documents more than 3 days prior to the execution of the contract. The second clause states that the contract is voidable by the buyer by delivering written notice to cancel within 3 days (excluding weekends and legal holidays) after the execution of the contract and receipt by the buyer of the stated governing documents, if requested in writing.

Accordingly, as the language requires the buyer to request the condominium documents in writing in order to trigger the 3 day right of rescission period, it should be stated clearly in the contract whether or not the buyer requests the documents.

Obtaining The Documents

Some of the documents required to be provided by the seller are recorded in the public records and can be obtained by the Clerk of Court on request or, in some jurisdictions, online. However, condominium associations are required to maintain copies of the declaration, articles, bylaws, rules and all amendments, as well as the current frequently asked question and answer sheet and year-end financial information on the condominium property to ensure availability to unit owners and prospective purchasers. The seller may request such documents from the association and the association may charge its actual costs for preparing the documents to the person requesting them.

In order to avoid delay in the running of the three day rescission period, a seller should request from the association and compile all required current condominium governing documents prior to listing the condominium for sale so the documents are available at soon as possible for a potential buyer. Failure to comply with the required and requested disclosures can result in the loss of a sale.

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About the Author



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