

SYLLABUS

CONDOMINIUM AND COMMUNITY DEVELOPMENT LAW

Fall Semester, 2022

2 credit course (with 12-page minimum writing component)

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Office Hours : Thursdays, 5-6 pm and 8-9 pm, location to be assigned by UF

Required textbook : The Condominium Concept, a Practical Guide for Officers, Owners, Realtors, Attorneys, and Directors of Florida Condominium, 14th, 15th or 16th edition :
Author, Peter M. Dunbar, Esquire, Publisher : Pineapple Press

This class shall focus on statutory requirements and practical considerations in the development of condominiums and other homeowner community regimes in Florida, with particular emphasis on community planning and document drafting in today's real estate environment. That portion of the class shall be presented from the perspective of both a developer and developer's legal counsel. In addition, the course shall address the role of the community association in operating and governing the community following turnover of control from the developer, with emphasis on current assessment collection and foreclosure issues.

DAY 1 Read: Ch. 1 of Condominium Concept textbook

- A. Common Law and General Community Development Concepts
 - 1. Introduction and historical perspective
 - 2. Land use and community development concepts

- B. Condominiums and Other Forms of Common Ownership
 - 1. Condominiums – residential, retail, office, industrial/warehouse, mixed-use, conversions, hotel-condominiums, phase condominiums
 - 2. Cooperatives
 - 3. Time-share estates and fractional ownership
 - 4. Homeowner associations (HOAs)
 - 5. Equity Clubs
 - 6. Key participants in community developments

- C. The Champlain Towers South Condominium (Surfside Tragedy)
 - 1. How and why this happened
 - 2. Lessons learned
 - 3. Post-tragedy litigation and legislative response

DAYS 2 & 3 Read: Ch. 2 of Condominium Concept textbook

A. Overview of Statutory Regulation of Condominiums and Homeowner Communities

1. Florida's Not-for-Profit Corporate Act – Chapter 617
2. Florida's Condominium Act - Chapter 718
3. Homeowners Association Act - Florida Statute §720.301 et. seq.
4. Other relevant Florida Statutes

B. Pertinent Federal Statutes of Interest

1. Federal Fair Housing Act, and 1988 Amendments thereto
2. Implications of Federal and State securities laws

DAYS 4 & 5 Familiarize yourself with AquaBlu Fort Lauderdale Condominium documents

1. Life cycle of a community development
2. Initial planning by the developer and practical considerations
3. Drafting and creation considerations – creativity; flexibility; adequate disclosure, etc.
4. The “developer” entity
5. Prospectus, and exhibits (Case Study: AquaBlu Fort Lauderdale)
6. Declaration of Condominium, and exhibits (Case Study: AquaBlu Fort Lauderdale)
7. Preparing for the condominium closings

DAYS 6 & 7 Read: Ch. 3, 4, 5, 9, 10, & 11 of Condominium Concept textbook

The Community Association: Its Functions, Powers and Duties

1. Powers and duties
2. Meetings, notice requirements, and voting
3. The community association election process
4. Access to records
5. Material alterations to condominium property
6. Association approval rights re: prospective buyers/tenants
7. Amending Documents
8. Fiduciary duties of directors and officers
9. Conflicts of interest; Board members' voting
10. Emergency Powers – what we have learned from the Pandemic
11. Promulgation of Rules & Regulations, enforcement and remedies
12. Relevant insurance issues
13. Termination of Condominium and Co-Op regimes

DAY 8 Read: Ch. 7 & 8 of Condominium Concept textbook

Fiscal Responsibilities of the Community Association

1. Assessments, budgeting and reserves
2. Collection of delinquent assessments, lien rights, the statutory “safe harbor”, and mortgagee issues

3. Borrowing of money
4. Financial reporting
5. Maintenance guarantees
6. Working capital fund
7. The bidding process

DAY 9 **Read Ch. 12 of Condominium Concept textbook**

A. Construction Defect Issues and Turnover of Control

1. Implied and statutory warranties
2. Statute of limitations/claims period
3. Chapter 558 requirements
4. Disclaimers and defenses
5. Financial and accounting issues
6. Developer representation and disclosure issues
7. Settlement negotiation and the litigation process

DAY 10 **Read: Ch. 14 of Condominium Concept textbook**

A. Ethical Considerations and Professionalism

1. Who is the client? Representation of affiliated associations
2. Potential and actual conflicts of interest
3. Civility between attorneys
4. Fee arrangements and billing
5. "CYA"

B. The Florida Department of Business and Professional Regulation ("DBPR")

1. Filing requirements
2. Manner of enforcement
3. Education and information
4. Administrative Rules (Ch. 61B – 15 et. al.)
5. Arbitration decisions and Declaratory Statements
6. The licensing and regulation of community association managers

DAY 11 **Read: Ch. 13 of Condominium Concept textbook**

A. The Condominium Purchase Contract and Related Documents

1. Purchase contract
2. Escrow agreement
3. Reservation deposit programs

B. Common Contractual Disputes, Rescission Claims, and Remedies

C. The Condominium Conversion

1. Practical considerations
2. Statutory considerations – the Roth Act

DAY 12

- A. “Mock” Board of Directors Meeting
- B. The Role of the Lender in Community Developments
 - 1. FNMA/FHLMC, and documentation issues
 - 2. The failed development, and the lender as “successor developer”
 - 3. Bulk transfers

DAY 13

In-class Quiz (35 or 40 multiple-choice questions)

ADDITIONAL INFORMATION

Academic honesty:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Grading information (what the final grade will consist of) and the grading scale:

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. Student grades shall be based upon a combination of In-Class Quiz grade (40%), and Research/Writing Paper grade (60%). However, final grades may be partially affected by class attendance and class participation, at the sole discretion of the Professor. There is no final exam for this class.

Accommodations:

Students requesting accommodation for disabilities must first register with the Disability Resource Center, <http://disability.ufl.edu>. Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Brian Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Attendance:

1. You should attend all scheduled class meetings and mandatory special events. If there is some reason why you must miss class, please contact me in advance via telephone or email and ask for an excused absence. Your final grade in the course may be lowered for more than two absences. If you miss a class, you are responsible for finding out what you missed. The law school's policy on attendance can be found at: <http://www.law.ufl.edu/student-affairs/current-students/uf-law-student-handbook-and-academic-policies> .
2. For in-person class meetings, it is your responsibility to locate and initial the sign-in sheet for each class session. By signing your initials, you affirm that you are physically present in class during that class period. It will be considered a violation of the course rules and the Honor Code to falsely indicate that you were present in class, or to assist a classmate in such misrepresentation.

Workload/Class Preparation:

Students should expect to spend, on average, approximately one to two hours preparing for each class. Reading assignments are posted on the Syllabus.

Course Objectives:

It is anticipated that, by the end of this course, students will have gained significant knowledge about how residential communities are planned and developed by real estate developers and, upon completion and turnover of control of the community by the developer to the owners, how the community is governed, maintained and operated by its community association. The course is taught largely through statutory references, and with many practical and actual examples provided. A great deal of insight and advice as to how to become a proficient and ethical lawyer is also included.

Exam Delays and Accommodations:

The law school policy on exam delays and accommodations can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Preferred Name and Pronouns:

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me

know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

Discourse and Inclusive Excellence in the Classroom:

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world – the law school classroom – and develop our unique personality as a class section, I encourage each of us to:

- Commit to self-examination of our values and assumptions
- Speak honestly, thoughtfully, and respectfully
- Listen carefully and respectfully
- Reserve the right to change our mind and allow for others to do the same
- Allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution.

Class Demeanor:

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. I reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates.

Online Evaluation Process:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Students will be notified when the evaluation period opens and may complete evaluations through the e-mail they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students.

Class Recording Policy:

The Office of Student Affairs will continue to record all classes via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when student may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.