

DO YOU KNOW WHAT YOU ARE BUYING? by Sandra J. Wicks, Esq.

Buying a home today can be very confusing. You may find just the style of housing with just the amenities you desire, and even get a good rate on your mortgage, but do you know what you are really buying? Does it matter?

There was a time when, if you bought a house, it was detached and on a platted lot approved by the local government, and it might have one story or two or be split-level, like so many houses in Alaska. You were responsible for all of your own home and yard maintenance. If you bought a condominium, it was inside a building, it could be one story or two, and your condominium association took care of your building and grounds maintenance using your monthly dues. Sometimes your detached house on your platted lot was also part of a homeowners association that charged minimal dues, provided no maintenance, but focused primarily on enforcement of CC&R's (covenants, conditions and restrictions). Things aren't so easy today.

Today there is much more terminology to be aware of and a home buyer should be careful to understand exactly what is being purchased. The following are some explanations of terms and concepts you should know when you go into the home buying market.

"Townhome" or "townhouse" - These terms have nothing to do with the legal description of the type of property you are purchasing; they simply refer to attached housing of two stories or more. Two attached two-story houses for separate ownership are townhouses, just as four or eight attached two-story houses are. This is a style of housing, not a legally defined type of housing.

"Condominium" - Condominiums come in many styles and forms and are a legally defined type of housing under a state law called the Uniform Common Interest Ownership Act (UCIOA). Under UCIOA, if you buy a "unit" described in a recorded declaration that has attached to it an undivided interest in some "common element" (sometimes called common area) also described in the recorded declaration, you are buying a condominium.

The fact you are buying a condominium says nothing about the style of housing you are buying. It might be a detached house, a duplex townhome or an apartment inside of a building. You might be buying what is sometimes referred to as a "site condominium" or you might be buying what is sometimes referred to as a "traditional condominium". The original idea of a condominium was an apartment within a building where you could own your apartment rather than just rent it. All of the unit owners shared ownership of the walls and roof, grounds and parking. To think of it very simply, you bought a box of air inside of a building. You did not own the exterior walls, the roof or the floor. Today you can still buy that type of condominium, or you may buy a site (a box of air) with a house, or one side of a duplex, inside of it.

If you buy a condominium unit, UCIOA requires that the purchaser be given a public offering statement and copies of the declaration, the articles of incorporation of the association that manages the condominium project, the bylaws of the association, the budget and other documents. The declaration will contain a description of the unit, the

common elements, any limited common elements, and also a description of what the association is required to maintain and what the homeowner is required to maintain. You can guess that if the monthly assessment is low, the association is not doing much maintenance (maybe just snow removal from a private street and covenant enforcement) and you, the homeowner, will need to do all of your own home and yard maintenance. Be sure that you read the declaration carefully, if the home you are buying is part of a project with a recorded declaration to find out what you will be responsible for maintaining and what your dues will pay for. (That is true whether you are buying a condominium or any other form of legally described property subject to a recorded declaration.) Neither type of condominium is better or worse than the other - they are just different. They are different, but also similar to "planned communities", another term you need to know when you are looking at making a home purchase.

"Planned Community" - Planned community is another term that comes from the state law, UCIOA. As explained above, UCIOA means Uniform Common Interest Ownership Act. Thus, from its title, it is clear the act is about property held in common. The difference between a condominium and a planned community unit is that the association owns the common elements, while in a condominium they are owned in common (in other words, in undivided interest) by the all of the unit owners. In a traditional planned community, the homeowner owned a platted lot and the association owned a platted tract or tracts. The tracts might be private streets, parks, club houses, etc. Today, when you buy into a planned community you need to look carefully at the declaration description of the unit, because the unit may be (guess what) a box of air with a house inside of it. In this type of planned community, the entire property on which the project is developed is conveyed to the association, except that boxes of air are carved out of the air space above the ground surface (or they might go down into the ground a certain distance, typically 20 feet). In other words, in practical terms, there is very little difference between a site condominium and the modern variation of the planned community.

Although it may not make any difference to you, if you want to buy a platted lot, your legal description needs to say: Lot __, Block __, _____ Subdivision, according to Plat No. _____, Anchorage (or Palmer, or Kenai) Recording District, Third Judicial District, State of Alaska. Your real estate agent should be able to explain to you exactly what type of legal entity you are purchasing, but be sure to look at the declaration and the public offering statement yourself. If you are buying into a common interest community, UCIOA requires that the declaration state whether it is a condominium or planned community form of ownership.

Good luck to you with your home purchase, be it a townhome in a planned community or condominium project, a detached ranch-style house in a site condominium or some other of the many combinations of styles and legal descriptions on the market. Just remember to **READ THE DECLARATION**.