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Disfunctional condominiums

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There are many condominiums in Massachusetts that are not functioning. Usually they are smaller buildings which contain two to seven units. Often the unit owners have not set up an association, elected trustees, or collected money for common expenses such as insurance. Contrary to law, the owners have not set up a reserve for replacements.

When I represent an individual condominium owner in a "sick" condominium building, I sometimes suggest that he or she sell the unit and get out of the building. Selling, however, is often not an option in a weak housing market. In any event, owning a condominium unit in a non-functioning building is a common problem.

The problem may become much worse because of the recent Massachusetts lower court case of Drummer Boy Homes Association, Inc. v. Carolyn P. Britton, et al., which held that a condominium association is entitled to only one priority, super lien for six months unpaid condominium charges, and reasonable legal fees and expenses, rather than a rolling lien consisting of multiple priority, super liens.

The Drummer Boy case has been appealed. If the decision of the lower court is upheld on appeal, the rolling lien which has been important to the financial survival of many condominium associations will be eliminated.

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