

The perfect shock

Condo dreams turn into nightmares with \$100,000 special assessments

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BY SANDRA GUY Staff Reporter

Robert Kelter was watching a football game when he noticed water dripping from the ceiling into the living room. He figured he'd have to call a roofer for a quick repair of the upstairs deck.

Kelter, who had paid \$405,000 for his 2-bedroom condo in 2001, had no idea the water drip would turn into a potential \$100,000 expense because of alleged major structural problems in the building.

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Condo board President Robert Kelter stands under a leaky roof at the Lincoln Theatre Lofts.

(John J. Kim/Sun-Times)

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But it did. And he's not alone.

About 100 condo owners at two renovated buildings -- one where Kelter lives on the North Side and the other in the South Loop -- have faced special assessments as high as \$100,000 apiece to pay for damage they say is caused by shoddy construction.

The two condominium buildings are undergoing a total of \$7 million in repairs, and their boards have filed lawsuits asking the developers to take responsibility for alleged construction defects.

A legal expert says the jaw-dropping extra assessments result from a perfect storm of condo conversion circumstances: A lack of oversight by the city, buyers with stars in their eyes and little information and developers who claim they have no assets to correct defects after they sell the condos.

One condo building is the Lincoln Theatre Lofts at 3146-72 N. Lincoln Ave., near the busy intersection of Belmont, Lincoln and Ashland. The other is the East Side Lofts at 1601 S. Indiana Ave., which is about two blocks south of Mayor Daley's home.

About \$4 million in repairs to the East Side Lofts are nearly complete and have been paid for by a special assessment imposed on the condo owners. Final repairs to the roof will start when the weather improves.

"We're going to have a tip-top building when it's all done," said one owner who asked to remain anonymous.

The East Side Lofts owner said he paid \$77,000 in the first special assessment. He bought his 2-bedroom condo for \$290,000 in August 2001, and owed less on his entire mortgage than the amount of the first special assessment.

He said he will pay another \$4,000 to \$5,000 for a new special assessment to cover lawyers' fees.

"The homeowners didn't deserve to be put in this situation," he said.

The first special assessment of \$4 million was divided among 65 condo units of varying sizes. A couple owners of double units reportedly paid \$120,000 each in the first special assessment.

The second special assessment for lawyers' fees totals \$100,000.

The board recently approved a third special assessment totaling \$150,000 to pay lawyers' fees through trial. A trial is scheduled for late this year.

"We don't want to do any half-measures," said a second owner who bought a condo in the East Side Lofts in 1996 and who asked that his name not be publicized. "We want to see this through to the end."

The East Side Lofts lawsuit alleges that the developer, MCZ Development Corp., concealed or failed to tell condo buyers of a leaky roof and balconies improperly attached to the 80-year-old, five-story building. An architect's report in September 1998 revealed initial problems with the roof, as well as cracks and deteriorating conditions on outside walls, according to the lawsuit. A second inspection a year later described a balcony in a "most dangerous condition," the lawsuit states.

One of the owners said the wall reconstruction forced at least one owner to move out of the building temporarily.

"They had to disassemble the entire northeast corner. You'd see sky from the living room [of the affected unit]," he said.

East Side Lofts, like many buildings in the South Loop, was not originally designed to be a residential building.

The same is true of Lincoln Theatre Lofts, whose condo board sued developer Gary Solomon & Co. and Solomon family members for allegedly failing to file an engineering report and concealing water leaks in the 77-year-old, 33-unit development, leaving an estimated \$3 million of repairs to the condo owners.

Loft condos in old factories and warehouses are in vogue. But the buildings are complicated to convert into residential uses, and pose unique maintenance problems, said Mark Pearlstein, the attorney who has filed lawsuits against the developers at both sites.

"The owners have to realize that they've bought into an old building," Pearlstein said. "It's never going to be totally water-tight, and it takes ongoing maintenance."

Pearlstein said his firm has filed lawsuits on behalf of 10 to 15 condo boards in the South Loop, where blocks of old factories and industrial buildings have been converted to residential buildings. Most of the cases have been settled out of court.

Diane Anderson, co-secretary of the Prairie District Neighborhood Alliance, a coalition of condo associations in the South Loop, said she became active because she is frustrated that developers involved in shoddy construction continue to get permits to build new condos.

"I'm not against building," Anderson said. "But there doesn't seem to be a master plan for the way it's being done."

Pearlstein said buyers have the mistaken impression that city inspectors will guard against shoddy construction.

"There is no effective government oversight of construction or renovation in the city," Pearlstein said.

The Chicago Buildings Department approves developers' plans before issuing a building permit, and issues a certificate of occupancy when it's time for people to move in.

"Contrary to expectations, the city does not conduct ongoing inspections of buildings during the construction process," Pearlstein said.

A Chicago Department of Buildings spokesman disagreed, and said it's the developers' responsibility to obtain the correct permits and to have their work inspected.

"We have enough inspectors to do the job," said spokesman Pete Scales. The department has a team of 140 inspectors who review technical specifications such as venting, heating, plumbing and electrical work, he said.

"We have to work together with the developers, and the developers have to do what they are required to do as well," Scales said.

MCZ, developer of the East Side Lofts, stands by its product and its work, said Julie Shelton, the defense attorney and a partner with Butler Ruben Saltarelli & Boyd.

MCZ denies the allegations in the lawsuit.

The developer of Lincoln Theatre Lofts, Gary Solomon & Co., declined comment.

The Lincoln Theatre Lofts condo association hired an inspector in 2001, a year before the developer turned over control to the condo owners. The inspector's Oct. 29, 2001, report found "many deficiencies and incomplete areas," including major concerns about the roof and an exterior coating on the building, according to the lawsuit.

The lawsuit alleges that the developer, Gary Solomon & Co., claimed that the reconstruction of the old theater was not a conversion and therefore required no engineering study.

The developer spent two years trying to "patch" the decks, masonry and roof to stop the leaks, according to the lawsuit.

The condo association hired contractors to make tuck-pointing repairs, but the leaks continued.

The association then hired an engineering company to do another inspection, which, on Sept. 20, 2005, turned up a nightmarish list of problems. The report was issued more than three years after the developer turned control of the development over to the condo board.

The list of problems included cracked concrete decks, an inappropriate drainage system for terraces, defects in the exterior coating, improperly sealed sliding glass doors and an improperly installed roof and wood-deck system, according to the lawsuit. The condo board implemented its first special assessment to cover \$1 million in repairs.

Kelter, a lawyer who does consumer and environmental work and who is the president of the Lincoln Theatre Lofts condo board, said he learned that beams running from an outside wall of the building into the condos apparently had been inadequately insulated. The beams became cold when snow sat on the outside decks, and warm air inside the condo units caused the water to condense and drip.

A separate problem with a coating on the building's exterior has created mold, Kelter said.

"Nobody [as a layman] can inspect a building and know if beams are insulated, or know if the outside of the building was constructed correctly," he said.

Kelter said if the condo owners have to pay the full \$3 million in repairs, the ones with the biggest units will end up paying about \$100,000 apiece in special assessments.

The situation makes it difficult for an owner to sell.

"It's awful," Kelter said. "You have to deal with it."

sguy@suntimes.com