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South Loop Condo Owners Battle Developers

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August 8, 2008 - Thanksgiving is normally a time for guiltless pleasures and worry-free celebration. Unfortunately, that was not the case for Julie Marburger as she headed back to her parent's place for the holidays. More than 500 miles away from her home in the South Loop, she received a panicked phone call from a neighbor saying Marburger's condominium was flooded.

Marburger, a first-time owner, said she drained her savings account to make a down payment on her unit because she assumed she was making an investment and safeguarding her retirement. Little did she know, she emptied her bank account into a unit that would later require her to pay more than \$30,000 in special assessments.

Three years after making that assumption, she now wakes up every morning to an ongoing legal battle between her building at [1717 S. Prairie](#) and the developers William Warman and Warren Barr's Limited Liability Company. The condominium board of directors claim in a lawsuit that the developers knowingly cut corners during construction in 2004 and still sold to the public. They said that the building would require an estimated \$6.5 million in repairs due to water damage. As the battle continues, owners sit feeling helpless and contemplating two choices:

Pay for the repairs before the building's water damage gets worse and hope that they win the case for reimbursement, or sell their unit.

If that isn't stressful enough, owners must confront the ever present threat of foreclosure in a plummeting economy.

There have already been five foreclosures in the building and 10 others could happen once owners begin paying more special assessments, said Leonard Szwajkowski, Prairie District Board President.

Money aside, when it rains or snows in Chicago, some owners feel the obligation to have their neighbors baby-sit their units while they're away.

"My life has become such that my neighbor Frank has a key to my place. When I travel for work, I have to call him and say, 'Hey Frank, can you check my condo for water and put down towels for me?'" Marburger said.

Warren Barr, one of the developers of [1717 S. Prairie](#), said he hopes the issue works out in favor of the condo owners but would not go into further detail about any legal matters.

"Hopefully, calmer heads will prevail and a fair settlement will be reached that works in the best interests of the building residents," Barr said.

Other owners are pointing fingers at the developers and the condo board itself. Kelly Staley, a 19th floor resident, said the board of directors made no effort to give owners the right to vote on whether they felt they were being overcharged for repairs.

"I feel disgusted, disappointed, and violated -not just by William Warman and his LLC. I am beginning to feel more of those emotions for those who I truly thought were representing us homeowners and our best interests," said Staley.

Szwajkowski said he is in the same boat as everyone else. He said he has papers piling up everyday on his desk about the issue and the lawsuit has forced him to become a construction expert.

"This building changed my life, I lost friends over this and I can't move. We're in too deep," said Szwajkowski.

William Warman and Warren Barr submitted a letter in 2007 to the board in an effort to propose what they thought were sufficient repairs to the building.

Barr believed it was only necessary to repair the existing water damage rather than execute any preventative adjustments to the building.

"From the information I have reviewed the repairs being proposed are far in excess of what is needed, and it would be a shame if the building decided to spend money that it did not have to spend," said Barr.

"They were not adequate and only addressed 15% of our problems... we turned him down," said Szwajkowski.

According to Szwajkowski, if they only repaired the units with existing damage, the water in the walls would simply be redirected into other nearby units. There is no way for the water to be drained from the walls without taking preventative measures, he said.

Tom Justic, a current owner, said that people's units are leaking from their sliding glass doors to their windows. He said that even though they may not leak all the time, when they do, people have to take time out of their busy schedules to clean and dry their condos.

The original lawsuit was filed in 2004 against Warman and Barr's development firm. That suit was later amended on May 2, 2008 to include not only the firm but everyone else involved with the building's design. The court has not yet reached a settlement but Barr himself confidently believes that a solution is right around the corner. "I believe this matter is very close to being settled," said Barr.

When the initial water leaks occurred, the board of directors said they launched a thorough investigation of the building.

Along with the help of [Wiss, Janney, Elstner Associates, Inc .](#), the firms' structural engineers and architects went to work in 2006.

WJE's Final report would become [1717 S. Prairie](#)'s trusty handbook. After reading the countless pages of structural jargon - that had to be broken up into five separate computer files - the report states that there are structural imperfections.

On a properly constructed building, strips of steel are placed between the windows and the mortar- which is known as flashing. They are placed there to stop water from getting into tiny gaps in the brick. End dams are there to further ensure that the water is drained off the building by creating a small barrier to repel moisture.

Holes and gaps were found in the flashing and end dams at [1717 S. Prairie](#) . Those flaws are the main cause of damage to the interior drywall and deterioration of the brick and mortar structure according to the WJE report.

"In our opinion, the flashing that was folded back onto itself does not meet the contract documents and is not an effective end dam," WJE's Final report said.

Since real estate values have dropped over the past few years due to the worsening economy, an issue like this couldn't have come at a more inconvenient time for everyone living in the building.

Tom Dzurison, a recently retired school teacher, said even if owners wanted to sell their place they wouldn't get anything for it. Plus, they have already contributed a significant amount of money to lawyer fees.

Owners were even required to make their first payment for phase 1 of repairs on the building this month, according to a board of directors meeting.

"Now all of a sudden, I'm paying \$42,000 in special assessments for repairs. I'm already on a fixed income through the state of Illinois because of recent retirement. I'm whacked out, I'm nervous, I've been a maniac," said Dzurison. "This issue should've ended already."