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## Legal Battle Pits Wealthy Developer Against Senior Condo Board

*Debate centers around a 48-unit, plain condo tower in Sunny Isles Beach, Fla.*

By **ROBYN A. FRIEDMAN**

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Did one of Miami's wealthiest real-estate developers and several associates buy apartments in a plain condominium popular with seniors—just to keep the property from being sold to competitors?

That's one of the allegations in a legal battle that's pitting Edgardo Defortuna, president of Fortune International Group, and his associates against the Tropicana Condominium Association, which represents owners of the 48-unit, nine-story Tropicana condo tower in Sunny Isles Beach, Fla.



The legal wrangling began in January when entities owned by Mr. Defortuna and several of his associates, who together own a total of five condo units at the Tropicana, filed a lawsuit challenging the condo association's plan to change its governing documents, the first step in the association's plan to dissolve the building's condo status and sell the building. The change reduced the percentage of owners needed to approve a dissolution from 100% to 80%. If the group of five succeed, they can effectively block a sale of the Tropicana.

The condo association filed a countersuit, arguing that Mr. Defortuna and others had improperly purchased the five units in an effort to thwart the sale of the Tropicana to prevent a rival developer from buying the site and building a bigger luxury condo building.

A new tower in place of the Tropicana would block the ocean views—and possibly reduce the values—of a planned 52-story, Ritz-Carlton luxury residential building that Mr. Defortuna's Fortune International is building in partnership with Chateau Group, a company controlled by investor Manuel Grosskopf, and Dune Real Estate Partners, a New York-based investment firm. The counterclaim seeks \$120 million in damages.

An attorney for Fortune and Chateau say the Tropicana condo association's claims are frivolous.

"The association's suggestion that our primary motivation in acquiring the units was to block a sale is without

merit,” said John Shubin, of Shubin & Bass PA, in a written statement. “The units were acquired for investment purposes, and with full legal compliance.”

To Miami real estate observers, the case is the latest example of the measures that property developers will take to control land and development in one of the nation’s hottest real-estate markets. Miami real-estate brokers say it’s not unusual for developers to buy condo units in older buildings in good locations to have influence or sway over future development plans and deals.

“These types of plots and ploys are going to become more commonplace given the scarcity of land in South Florida,” said Anthony M. Graziano, senior managing director of the Miami office of Integra Realty Resources, a commercial real-estate research and consulting firm in Miami.

Although South Florida was once ground zero for the real estate crash, the market is now surging. Values for oceanfront parcels have shot up between 37% and 50% within the last 24 months alone, according to Jack McCabe, a Deerfield Beach, Fla.-based housing analyst.

In an interview, Mr. Defortuna pointed out that all five units were purchased before the land for the Ritz-Carlton was assembled and said that he is renovating his unit in the building to prepare to rent it out. He said that the owner group’s actions have nothing to do with the Ritz-Carlton project or its ocean view.

“As a unit owner at Tropicana, I do not believe it is time to sell now because the Sunny Isles Beach market is only going to get better,” Mr. Defortuna said.

Still, for the developers of the Ritz-Carlton project, the stakes are high. The plans calls for 212 condo units ranging in price from \$2 million to \$25 million for penthouses. And there are the views: every single unit will have an ocean view, Mr. Defortuna said.

Pre-sales for the project, slated for completion in 2018, began in mid-January, with buyers required to put down 10% of the cost of their units as a down payment, which is expected to escalate to 50% as construction progresses.

The development is one of the largest projects yet for Mr. Defortuna, a veteran developer who built several

other luxury condo projects in Sunny Isles Beach, including Jade Ocean and Jade Beach. Mr. Grosskopf, the son of an Argentine shopping center developer, has financed other condo projects in the Miami area in recent years.

If the Tropicana were sold, its oceanfront site would likely attract the attention of developers looking to build a bigger project in its place, the condo association alleges in its court papers. “A reduction in views would certainly negatively impact the value of the units at The Ritz-Carlton,” Mr. Graziano added. “Units with ocean views sell for more than units without.”

According to Glen Waldman, a Coconut Grove, Fla.-based attorney who is representing the Tropicana condo association, Chateau Group offered to buy the Tropicana for “a very lowball offer south of \$50 million” but that it was rejected.

Mr. Waldman said the association also met with representatives of Fortune. “I think they realized that the association was looking for substantially more money than what was offered and that it’s a heck of a lot cheaper to spend a couple of million bucks, buy a few units and keep us from moving on that way.”

*‘The longer this drags on, the more pressure it puts on the developers, who don’t want to be selling their Ritz-brand condos under a cloud of uncertainty. It’s another only-in-Miami story.’*

—Jason Kellogg, a partner with Levine Kellogg Lehman Schneider + Grossman LLP in Miami

Mr. Waldman said that the association has retained Steelbridge Real Estate Services LLC in Miami to market the Tropicana for sale, and the company has set a March 31 deadline for bids. Mr. Waldman said that he expects bids to exceed \$100 million.

**The condo association’s position could grow stronger the longer the litigation over the termination of the building’s status persists, said Jason Kellogg, a partner with Levine Kellogg Lehman Schneider + Grossman LLP in Miami, who isn’t involved in the litigation.**

**“The longer this drags on, the more pressure it puts on the developers, who don’t want to be selling their Ritz-brand condos under a cloud of uncertainty,” Mr. Kellogg said. “It’s another only-in-Miami story.”**