

Cover Story: One year later, lessons from Surfside condo tragedy impact market

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Kevin Spiegel lost all of his possessions when the Champlain Towers South collapsed on June 24, 2021, but that paled in comparison to losing his wife, Judy.

The retired hospital CEO stood by as rescue teams he'd trained with came from New York to search for survivors. They recovered Judy's body a week after the collapse, which claimed 98 victims.

"It's been a struggle for me, my children and my grandchildren because Judy was the glue that kept our family together," Spiegel said. "You blink and it's all gone. It's surreal that something like this can happen in today's day and age."

Media coverage of the tragedy – and what might have caused it – dominated news accounts worldwide for weeks. A year after the worst building disaster in Florida's history, the site remains empty,



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but ramifications of the collapse continue to reverberate with the victims' family members.

For South Florida's civic and business leaders, the Surfside collapse served as a rallying cry to ensure similar disasters are averted. A bill mandating stricter building inspections and maintenance passed the Florida Legislature during a special session in May, but the arduous work of inspecting and repairing older condominiums must now begin.

For developers, the tragedy resulted in increased scrutiny, but also opportunities. They must be more careful when building now, but the crackdown on condo maintenance will lead to the redevelopment of older buildings.

This comes at a time when condo redevelopment sites are more valuable than ever.

For example, in May, the court auctioned the Champlain Towers South site for \$120 million to Dubai, United Emirates-based Damac Properties. It announced plans to build a Cavalli-branded condo there, although the details have yet to be revealed.

That same month, Florida legislators unanimously passed SB 4D, which Gov. Ron DeSantis swiftly signed into law. Starting July 1, all condos and cooperatives that are at least 30 years old must be inspected. Those within 3 miles of the coast will undergo inspections at the 25-year mark. Reinspections must occur every 10 years. Prior to this, only Miami-Dade and Broward counties had inspection requirements at 40 years. Additionally, starting Dec. 1, 2024, condo associations can no longer waive the collection of reserves for future building repairs.

Miami-Dade County and Boca Raton also passed stricter building inspection laws.

The new state law will make Florida's 1.5 million condos much safer, said attorney Peter Sachs, founding partner of Sachs Sax Caplan in Boca Raton.

"Most of these condos haven't been looked at for structural integrity since they got their CO [certificate of occupancy]," he said. "The immediate impact is it will increase expenses But in

the long term it will save money because you can plan and contract for repairs ahead of time, instead of waiting until the last minute, as they did in Surfside."

Are associations ready for repairs?

The new law is a huge step in the right direction, but it will create financial challenges for many condo owners, said Adam Mopsick, co-founder and CEO of Miami-based Amicon, which manages construction for condo associations. More associations will need to complete repairs they've long neglected, and many have not set aside reserves for those fixes, which will lead to significant assessments on unit owners, he said.

"What happened, historically, with a lot of associations is they kicked the can down the line because repairs are expensive and not popular things to do," Mopsick said. "Many would rather do cosmetic improvements that they think make the building more attractive. Every year, the problems get worse."

Smaller buildings will have the biggest difficulty funding repairs because there are fewer units to spread the bills across, Mopsick said. That's compounded by the cost of construction soaring 30% over the past year and a shortage of available workers.

The reserve requirement could impact relatively newer buildings, too. Mopsick said he's aware of condos built in the early 2000s with waterproofing issues that will require significant repairs well before the structures turn 30.

"Some buildings will have massive assessments – and some will catch it early enough to increase fees at a moderate amount – but it will be an additional monthly cost," he said. "That will be factored into the [condo] sales price by the buyer or the seller."

Hiring inspectors could also become more expensive as the new law will increase demand.

Dorothy "Dottie" Mazzarella, VP of government relations for the Washington, D.C.-based International Code Council, said the U.S. building inspector workforce is already aging, with half of the professionals set to reach retirement age by 2030. Florida has a

younger inspection workforce than most states, but it will still need to train more people.

Mazzarella expects that when federal findings of the disaster are released, it will lead to changes in the national guidelines for building codes, too.

Insurance is another major expense that will soar for condo associations and unit owners, said Regan Marock, senior VP of the Southeast for Dania Beach-based AKAM, which manages 70 condo buildings in Florida. Insurance carriers are more carefully evaluating the risks in condos and flagging code violations and unfunded maintenance and repairs, he said. If a building has frequent claims for leaks and water damage, insurers will want the association to fix the problem.

"I have some buildings where the insurance broker says 'your increase is 50%, and I know it doesn't seem reasonable, but the building next door is getting a 150% increase,'" Marock said.

Condo buyers undaunted

Soon after the Champlain Towers South fell, some brokers speculated it would cause a slowdown in sales in older coastal South Florida condos. However, the opposite happened.

When looking at condo sales east of Interstate 95 in Miami-Dade County, Ana Bozovic, founder of Analytics Miami, discovered 1,215 sales of units built prior to 1980 in the first quarter of 2022 – up 100% compared with the first quarter of 2020, before the Covid-19 slowdown. Sales of newer condos surged 173%, to 2,459 during that period.

"Our region is attracting people with capital; this is why newer buildings have seen a higher percentage increase in sales," Bozovic said. "The bigger spike in post-1980 building sales simply reflects the buying preferences of the incoming population."

Ron Shuffield, president and CEO of Berkshire Hathaway HomeServices EWM Realty in Miami, said the condo market in Surfside over the past year reflects the county's overall market: an increase in sales and fewer units available. While many older buildings exist, some are maintained well. In fact, Champlain

Towers East, by the same developer and architect as the condo that fell, did not experience serious structural problems, he noted.

However, condo buyers and Realtors are asking more questions about buildings' maintenance and condo association finances, Shuffield said.

"This has certainly opened a lot of eyes," he said. "If there is a serious problem in a building, nobody wants to hide that now."

Meanwhile, tighter requirements for condo financing from major lenders have stymied some buyers. After the Surfside tragedy, Fannie Mae and Freddie Mac began sending questionnaires to condo associations before financing purchases.

Rosie C. Sotero, a Realtor with Keyes Cos. in Miami, noted numerous instances where her buyers could not close a sale because an association manager refused to answer all the questions, including if they had deferred maintenance.

"If they are taking this approach, it will put buyers who don't have cash out of the market, and buyers who do have cash will have limited competition and realize they can offer less," Sotero said.

Transparency will improve soon. Miami-Dade County approved an ordinance to create an online library of condo and homeowner association financial and governing documents by February 2023. The question is: How will buyers react when they learn about buildings with big maintenance bills pending, and will lenders play ball in those buildings?

A wave of terminations

For some condo owners, the most lucrative sale may be to a bulk buyer planning to tear down the structure and redevelop the site. Amicon's Mopsick said many condo owners hit with assessments for repair work they can't afford may feel pressured to sell.

It's not a new phenomenon. Over the past year, the Biscayne 21 condo in Edgewater, the Carlton Terrace condo in Bal Harbour and the Historic Hollywood Beach Resort were among the properties in bulk buy deals for potential redevelopment.

Still, with luxury condo sales in coastal South Florida at an all-time high, there couldn't be a more lucrative time for condos past their prime to sell out.

Attorney David B. Haber, founder and managing shareholder of Miami-based Haber Law, said building officials have shown less tolerance for structural violations and have been faster to demand immediate repairs or evacuations. When condo owners see sky-high repair bills, many would rather sell their units in bulk to a developer, terminate the condo association and move on, he said.

"The need for repairs will lead to more terminations," Haber said. "Some of these owners are older and on fixed incomes. They aren't prepared to pay special assessments."

Key to whether a condo termination deal makes sense is whether the land is more valuable than the units, Shuffield said. If the building is in an area where zoning allows more density, like downtown Miami or Brickell, that could attract a big offer from developers. Coastal properties are also extremely valuable.

Yet, getting enough condo owners to sell for a termination can be tricky, even if the offer makes financial sense, AKAM's Marock said. That's because, in expensive neighborhoods, the money wouldn't be enough for the resident to buy a new home there, he added.

"These people would get nice payouts, but they wouldn't be able to live on the ocean anymore," Marock said.

Record settlement rattles insurers

The record \$1.02 billion settlement won by the plaintiffs in the Surfside condo collapse case certainly turned heads in the insurance industry. Most of the parties that settled were involved in the inspection and maintenance of the Champlain Towers South or the construction of the neighboring Eighty Seven Park, a condo project the class action attorneys alleged contributed to the damage of the collapsed condo.

The developers of Eighty Seven Park denied the allegations that construction of their project damaged Champlain Towers South, and none of the parties in the settlement admitted fault. However,

the eye-popping payments are sure to make the insurance industry tighten the screws when writing policies for contractors.

The cost of insuring a project for a general contractor has gone up significantly, said Ralf R. Rodriguez, a construction attorney with Cozen O'Connor in Miami. Many contractors are demanding that developers cap their liability for damages, so the amount doesn't exceed the limit of the insurance policy, to curb additional out-of-pocket costs.

"It can become a dealbreaker, in terms of whether a contractor will stand behind their work and put not just their reputation on the line, but their company on the line for any default that creates liability to the [building] owner," Rodriguez said.

If more general contractors are on the hook for liability, they will likely use less disruptive building methods to reduce the chances of damaging neighboring buildings, he added.

The structural issues at Champlain Towers South were discovered far beyond the deadline to sue contractors, so condo associations will be more aggressive about filing lawsuits early, said Gabriel Z. Coelho, a construction defect attorney with Ball Janik LLP in Miami.

"The problems you see right after construction grow over time," he said. "The reason you see all the problems with concrete and balconies are all related to issues that started from the beginning."

The best way to curb lawsuits against contractors over construction defects is careful documentation, said Peter Dyga, CEO of the Florida East Coast chapter of Associated Builders and Contractors. That will require better monitoring of construction of the primary project and the impact on neighboring buildings, he said.

"As a result of this, contractors will price projects higher because they have to do more testing and document it better," Dyga said.

Moving forward

A year after the collapse of the Champlain Towers South, it's clear the tragedy has forever changed how condo structures will be built, regulated and maintained in Florida.

But while those who lost loved ones due to the collapse likely appreciate the stepped-up enforcement efforts, those actions and the record billion-dollar settlement money they share do little to address their anguish as the world moves on.

"It's been a very emotional year," said Rachel Spiegel, who lost her mother, Judy. "There's no formula for how to grieve, and we are still very much in the thick of it. The emotional pain is just as hard today as it was on the first day. It hasn't gotten any easier."

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