

SECTION V

CONDOMINIUM/TOWNHOME

The condominium/townhome is a form of fee simple ownership that has gained in popularity in recent years. One of the reasons for the increased popularity is that the maintenance is provided by the Homeowners association. This means the owner does not have to worry about keeping the lawns and shrubs trimmed, painting the building, or the general upkeep that is required with a single-family residence.

When an individual purchases a condominium or townhome unit, they purchase a fee simple ownership of a single unit in a multi-unit structure. Included with the unit is a percent interest in the common elements. The common element generally consists of the land beneath the building, support walls, stairways elevator and roof. In some developments this also includes swimming pools, club houses, tennis courts, and golf courses.

Bases on our studies and the uniqueness of the condominium/townhome market we will appraise these units using the sales comparison method and develop models for the existing complex.

Those developed for the future will need to use the same method, adjusting the existing models for their uniqueness. The use of these models will allow the appraiser to achieve market value for the desired property.

The building use code for condominium and townhomes is 12 and the section type is R.

CONDOMINIUM



TOWNHOME



TAXATION OF CONDOMINIUMS AND TOWNHOUSES

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North Carolina Tax Collectors' Association

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1. What is a condominium?

Simply put, a condominium is a way of owning fee simple title to an "air space cubicle" within a larger structure.

2. What do you mean by "air space cubicle"?

When you buy a condominium, you own outright only the area from "paint to paint." You do not own outright the main structural members of the building, the land, the hallways, mechanical equipment serving more than one unit, and similar features of the property. Sometimes you may also own storage area in the basement or a parking space.

3. Well, how does this differ from owning a house and lot?

With regard to the "air space cubicle," not at all. You have the same legal title to the "air space cubicle" that you would have in a conventional house. You can sell it, lease it, mortgage it, and dispose of it by will. You can own it individually or as tenants by the entirety with your spouse, or as tenants in common.

4. I've heard people speak of "common areas" in a condominium. What does that mean?

The "common areas" include all of the land, parts of the building that serve more than one unit, and separate service structures on the land such as a swimming pool, tennis courts, clubhouses, and the like.

5. What are some examples of "common areas" in the building itself?

The roof, the foundation, exterior and party walls, heating and plumbing systems, hallways, stairs, and elevators. Sometimes some of these "common areas" service only one building in a large condominium complex or only certain floors of a high-rise structure. These are called "limited common areas" serving that building or floor.

6. What ownership interest do you have in the "common areas"?

The master deed setting up the condominium must specify the exact percentage interest that each unit has in the common areas and any limited common areas serving that

particular unit. This percentage must be approximately the same as the ratio of the fair market value of the unit at the time the master deed is recorded to the total value of all units having an interest in the common area. Under North Carolina law, this percentage cannot be changed without the agreement of all unit owners.

7. What can you do with your ownership interest in the common areas?

Very little except enjoy it. You cannot sell or mortgage this interest separately from your interest in the "air space cubicle," and you have no right to have your separate interest "partitioned or laid off on the ground separately from the interests of other unit owners.

8. Who takes care of maintaining the common areas?

Each unit owner automatically belongs to an "association of unit owners." The association is responsible for keeping the common areas. To do this, each unit owner is obligated to pay the association monthly maintenance charges. The association has a lien on the unit for these charges. If you do not pay, the association can foreclose its lien and sell your unit.

9. How is a condominium unit taxed?

G.S. 47A-21 says that "each condominium unit and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be separately assessed and taxed." This applies both to ad valorem taxes and special assignments.

10. If my neighbor in a condominium does not pay his taxes, does that affect me?

No, the law says "each unit holder shall be liable solely for the amount of taxes against his individual unit and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

11. As a tax collector, how do I go about collecting delinquent taxes on a condominium unit?

You proceed in exactly the same way as you would against a single-family house and lot. You can use the mortgage-type foreclosure procedure or in the in rem procedure. You can levy on the household furnishings in the unit. You can garnish the owner's wages. The only special thing you will encounter is the legal description of the property. Instead of referring to a single deed as you would normally do for a single-family house, you will reference both the master deed and the deed conveying the individual unit on which you are foreclosing.

12. Suppose the county or city wants to foreclose and purchase the property at the sale to protect its tax lien. Is there anything special about condominiums that we should take into consideration?

Yes. If you purchase a condominium unit on foreclosure or your tax lien, you will become responsible for the monthly maintenance payments to the association of unit owners just as if you were an individual unit owner. This means that you cannot just leave the unit vacant unless you are prepared to pay these charges from county or city sources.

13. What is a "townhouse?"

Well, it is not a condominium. When you buy a townhouse, you own the land on which the unit is standing and all parts of the structure described in the deed. With attached units, this usually means that you own from the center line of party walls.

14. But I thought that "townhouses" also had common areas"? Doesn't that make them just like condominiums?

Yes, but only on the surface. In a townhouse development, some of the land and special purpose structures such as swimming pools are owned in fee simple by an association of unit owners. As an owner of an individual unit, you have no legal title to any of the common area. However, you are automatically a member of a non-profit association that does have legal title to them. Thus, in a townhouse development legal title to individual units is held by the people owning them, while legal title to the common area is owned by the association.

15. How do I as a tax collector go about collecting taxes on townhouse units?

In exactly the same way as you would with a conventional residence.

16. What about delinquent taxes on the common area?

Here, you have a problem. In theory, you can foreclose your tax lien on the common area, naming the association of unit owners as the owner. However, it would be highly unlikely that you would find a purchaser at the foreclosure sale. You cannot enforce your lien on the common area against the individual units because the individual unit owner has no legal title to the common area. You can, of course, levy on any personal property belonging to the association and you can garnish any intangible assets it may have. In short, levy and garnishment are the only effective remedies for collecting taxes levied against the common areas of a townhouse development.

17. I thought the legislature did something recently to clear up this problem.

Well, they tried. The 1979 legislature directed that the property of certain "homeowners associations," which is defined in a way that includes townhouse developments and not much else, shall be appraised at "nominal value," beginning in 1980. The theory of the statute is that all of the value of the common areas in townhouse developments will be reflected in the value of the individual units and that therefore the common area has no independent value. This will alleviate the problem for 1980 and future years, but it does not affect 1979 and prior years.

18. What about timeshare?

They should be treated in a similar fashion as condominiums. They should not be valued, from an appraisal standpoint, on the basis of the sales price of the timeshare's period of time. Find condominiums that are affected by the same market influences and use them as a comparable. There will be one appraisal and assessment per building. The association will normally be responsible for the payment of taxes. How they recoup that expense is left up to the association.