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## Foreword

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## FOREWORD

PATRICK J. ROHAN\* AND CURTIS J. BERGER\*\*

Virtually unknown in the continental United States a decade ago, the condominium is well on its way toward becoming the predominant mode of residential ownership. A number of factors contributed to immediate acceptance of the condominium concept by builder and home buyer alike. Principal among these were the scarcity of land within commuting distance of major urban centers; the upward spiraling cost of labor and building materials; the changing market (characterized by smaller, more mobile families and an expanding senior citizen population); a declining interest in detached homes on separate plots; and a widespread demand for recreation-oriented facilities. The condominium format satisfied the needs of empty nesters who sought to be relieved of the burden of caring for a house and yet did not wish to become rental tenants. The condominium also renewed interest in such parallel arrangements as cluster zoning, home owner association and planned unit development projects.

It must be admitted, however, that condominium living has not been as universally carefree as the developers' brochures would have us believe. The enactment of enabling legislation geared to high-rise buildings produced a degree of uncertainty in the construction and operation of lateral condominiums, especially phased developments. Inexperienced management and troublesome neighbors have generated their share of headaches, as has the practice of some developers of underestimating common charges to spur sales. In some areas, a greedy few have sought to maximize profits by saddling their condominium projects with recreational leases, long-term management contracts, or a combination of the two. These objectionable practices have rendered all condominium offerings suspect in the eyes of the home-buying public, and hastened the day when homebuilding will be a highly regulated industry.

In the pages that follow, the legal, economic and social problems of the condominium are placed under a microscope. Under the aegis of the *St. John's Law Review*, participants in virtually every phase of

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condominium development have expressed views as to where we have been and where we are headed in this challenging field. Their thoughtful observations should furnish some guides for counselling the next generation of condominium builders and purchasers, and provide insights into those aspects of condominium law and practice that are in need of attention.

The condominium is well on its way to becoming the dominant mode of residential development in the United States. It is estimated that more than 100,000 condominium units were built in 1970, and that the number of units under construction in 1971 exceeded 150,000. The growth of the condominium industry has been rapid and is expected to continue for many years to come. This growth has been accompanied by a corresponding increase in the number of lawsuits filed in the courts, and a corresponding increase in the complexity of the legal issues involved. The purpose of this article is to provide a survey of the current state of condominium law and practice, and to identify those areas which require further attention.

The first of the areas which require attention is the definition of a condominium. The traditional definition of a condominium is a form of property ownership in which two or more persons own undivided interests in a single tract of land, and each owner has the right to use the entire tract. This definition is based on the concept of a joint tenancy, and is derived from the common law. However, the modern definition of a condominium is based on the concept of a separate ownership, and is derived from the civil law. The modern definition of a condominium is a form of property ownership in which two or more persons own separate interests in a single tract of land, and each owner has the right to use the entire tract. This definition is based on the concept of a separate ownership, and is derived from the civil law.

In the past few years, the legal, economic and social problems of the condominium have become increasingly complex. The legal problems of the condominium have become increasingly complex because of the increasing complexity of the legal issues involved. The economic problems of the condominium have become increasingly complex because of the increasing complexity of the economic issues involved. The social problems of the condominium have become increasingly complex because of the increasing complexity of the social issues involved.

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