The Conundrum of *Condominium**, or A Critical Look at the Best-selling Real Estate Exposé

by Stephen E. Roulac

John D. MacDonald, originator of the Travis McGee mystery novels, describes in a hard-hitting style much of what is wrong with that portion of the economy known as the "real estate industry." MacDonald's narrative was selected by Book-of-the-Month Club, whose reviewer describes the book as referring:

> ". . . not only to a very mixed bunch of condominium dwellers but also to the hustling real estate developer who put up Golden Sands in the first place, to the contractor, to a brood of buyable politicians, to some fornicating wives, to more than one spiffy mistress, to a shifty banker and other far from life-enhancing types. Florida's fabled sun, it would appear, fosters corruption and sexual appetite as well as oranges. Furthermore, even as the hurricane gathers energy out at sea, MacDonald educates us on the sly, as it were, painlessly telling us more about shoddy construction and real estate shenanigans than I ever thought it possible to make absorbing."

How the real estate sector came to be in a position to deserve such treatment is the subject of this article.

The disaster theme is "big" in entertainment these days and MacDonald's book is a commentary on disaster at many levels. Disaster is perhaps the best description for the personal lives of the majority of the characters in the book. In social terms, disaster is not undescriptive of the sad plight of a distressingly large group of retirees. In fact, promotional literature for the book described the condominium dwellers collectively as "a landlocked ship of fools."

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*John D. MacDonald, *Condominium* (New York: J. B. Lippincott Company, 1977), 447 pages.

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Condominium focuses a sharp spotlight on the folly of searching for something in retirement that was not or could not be achieved in one's earlier working life. On the level of personal relationships, the households of many of the characters reflect the strained, silent truce of unarticulated and undeclared, but allconsuming, wars. The personal side of the book adds an important backdrop to the physical—the narrative builds to the multifaceted destruction wrought by a hurricane of unprecedented force—and economic disasters that befall the involved parties in this story.

MORAL OFFENSES

Although many in the real estate business assert their professionalism and proclaim their sensitivity to higher values, the behavior patterns related in *Condominium* are stark and dark commentary on how society perceives the real estate business and those involved in it. As sociological commentary, the book highlights the gross insensitivity of many in this field.

Among behavior patterns described, which range from peccadillos to extreme peccancies, are the following:

1) The fast talking broker who pressures the unsuspecting owner to sell because "there are problems on the horizon" and simultaneously steers the buyer towards her project because the preferred house purchase is in a neighborhood sinisterly described as "changing."
2) The sullen property manager who is non-responsive to tenants' complaints and needs, unless they be those of lonely and sexually frustrated women.
3) The property management company with a long-term management contract taking a "you can't do anything about it" attitude to owners' complaints.
4) The unconscionable sales contract with the fine-print clause wherein buyers "sign off" that everything is satisfactory, and having the effect of exempting the builder from any obligation to make good and do the standard completion work that accompanies any move-in "punch list," in the worst tradition of a perverse adhesion contract.
5) The Homeowner's Association fee turning out to be more than double the projections because the actual project included many fewer units than were in the original plan, from which the original fee was derived, with the explanation that "the accountant forgot to make the adjustment for the smaller number of units."
6) Payoffs for public agency approvals, both in cash and sexual services, and the accompanying deceit to obtain the official approvals. Specifically, major clearing and grubbing and land preparation work is misconstrued as "minor dredge and fill" and buried in the middle of a full agenda of otherwise innocuous and nonsignificant items. And then, adding insult to injury, the developers schedule the major land clearing for "Saturday because the government is all closed down for the weekend."
7) The pathetic situation of the retirement family on a fixed income who, after having fine-tuned their budget, and allowing less margin than they probably should, are faced by the financial impossibility of responding to monthly maintenance charges that have escalated from the $81.50 promised to the $168.50 required to meet current costs, not to mention additional assessments for accumulated deficits.

8) The frustrations, aggravations, and lack of appreciation that accompany the role of serving on the board of a condominium association.

Condominium is in the tradition of *Airport* and *Hotel* and other similar books that describe the "inside story" of a significant industry. The author, who is a graduate of Harvard Business School, observes that the prime lesson he learned was the importance of behavioral influences on decision-making. His personality study of the developer is particularly well done and will cause many to speculate as to the author's role models.

"CREATIVE FINANCING"

Although the treatment of subtleties and nuances of character development fall well short of Louis Auchincloss' novels, the quality and depth of John MacDonald's research is impressive. His treatment of the gimmicked financing and structuring used for the proposed Harbor Pointe project will convey to many in the industry a sense of *deja vu.* The scenario commences when Martin Liss is informed by his banker that his $11,000,000 credit line is no longer available to him. The banker justifies the withdrawal of this commitment as being necessary in the face of problems with other loans and suggests that an "introduction" be made to a real estate investment trust that might solve the problem. To set the stage, it is appropriate to relate MacDonald's description of the chief executive of the Equity Mortgage Management Shares:

> "Sherman Grome was tall. He was very tan. He had a hard protruding shelf of brow above deep-set eyes. His hairdo was spray-shaped to cover his ears and most of his forehead. His nose was imperial. He wore a brush denim leisure suit and a blue work shirt open at the throat. His manner was one of total indolent assurance and half-concealed amusement. He wore oval sunglasses with blue lenses. To get to the Athens Airport lounge they had to pass the car rental desk. The rental girls glanced at him, came to attention and stared. Sherm had the celebrity look."

As would be expected, Sherman Grome arrived in a Lear jet.

Although Martin Liss had requested $11,000,000 in financing for his project, Grome proposed to make a $12,000,000 loan out of which $1,200,000 would immediately be paid as prepaid interest with no principal due until the end of the second year. There was a string attached, however. A condition of the loan called for the borrower to take over a troubled project in default on its mortgage. Grome proposed to advance $500,000 at a favorable 8% interest with the funds to be used to bring $100,000 of defaulted mortgage interest current, buy out the developer for $100,000, and the balance for working capital.

But Martin Liss balked at these terms. He asserted that the proposed deal narrowed his margin and increased his risk; consequently, "sweetening" was needed. Grome's response to Liss's need for sweetening is to suggest that the land, which the developer had planned to contribute to the deal at a $200,000 profit, be priced so as to provide a $1,000,000 profit, the extra funds to come from a corresponding increase in the loan to $13,000,000.

Of course, there is a missing link: in response to Liss's query as to whether he can take down the funds as needed, Grome stipulates that they be held in certificates of deposit at the bank which had initiated the deal by withdrawing the developer's credit line. The developer and his executives, on reflection, conclude that the deal is so flaky that Grome must be under extreme pressure to put money out and likely is making similar uneconomic deals elsewhere, leading them to question the probability of the sustained viability of Grome's operation. So, to complete the financial daisy chain, they sell the REIT's shares short.

Significantly, while the developer possesses the ability to see weaknesses in other projects, albeit a transaction in which he was involved, and to act upon that information to his advantage, he is myopic about the financial feasibiity of his own project. Consistent with the internal self-deception of the ever-optimistic developer, the Harbor Pointe deal is premised upon hoped-for strength in a market in which few if any sales are presently being consummated, let alone sales of luxury units at the top end of the price scale. Yet, not surprisingly, the developer himself is aware of his own duplicity and inconsistency when his contractor notifies him that he had "cut back on the specs everywhere I could. It isn't first class anymore, Marty."

CHANGING INDUSTRY STRUCTURE

As with all economic phenomena, real estate financing activity moves in cycles. The depression of the 1930s marked the end of easy money, available during the 1920s in the form of mortgage bonds, and from that period until the early 1950s the control of property resided in the hands of major financial institutions. Over the last quarter century there has been a gradual erosion of the quality of those controlling property, as such control has moved from strong institutions guided by fiduciary motives to "weaker hands," in both the financial and integrity sense. While *Condominium* is set at perhaps the bottom point of the "control transition" cycle, it is instructive for what is said about where the business has been, changes that must be made, and prospects for the future.

To a very large degree the approach of a distressingly significant portion of persons in the real estate business has been characterized by a gross lack of sensitivity. For too many years land was treated as a raw material, which had no costs and could be wantonly debauched, rather than the precious and unique "endangered species" that it is. Many projects reflect no sense of user needs and certainly no design conscience. All too often building quality reflects a lack of pride in craftsmanship and technical workmanship. The financial, legal, and economic relationships that characterize many ventures reflect no appreciation for fiduciary responsibility.

The real estate business generally, and particularly those portions of it involving the conversion of a land use in the creation of new physical structures, is a very serious and sober undertaking. The importance of personal space in all facets of one's life cannot be underestimated. Physical environments have profound behavioral influences. Buildings themselves are symbolic, and actual, monuments. To a very large degree, how man relates to his built environment is a statement about his respect for himself and his respect for his society. Though building merits the best of society's talents and potential, it seems to bring out the worst.

Just as many of society's institutions are experiencing rapid change, so also has dramatic change occurred in the real estate sector. No longer are the critical issues of study tied to "title, title, who has the title?" or other dusty, dull feudal concepts of olde English common law. To a very large degree, the accelerating pace of change in society is consolidated in urban property.

A DISTURBING MICROCOSM

Real estate is today a primary focal point of social pressure and can provide an outstanding context for viewing the change forces occurring in society generally. Yet few arenas of economic activity are as ill-equipped to be the locus of such considerations. Most simply stated, many in the industry seem neither prepared for nor inclined to behave responsibly.

Viewed strictly from the perspective of the party in question, discounting of course a questionable moral context, behavior patterns of various individual actors in the real estate drama appear to be rational. The problem is that the interaction of the many actors produces a unique and disturbing negative synergy. It is potential unrealized, talents squandered, expectations disappointed.

MacDonald accurately pinpoints the importance of the behavioral approach to decision making. As he observed in a "W" interview: "whatever course of action you take, the decision is going to be affected by our inner feelings, emotions, prejudices and self-deceit." This is the real estate industry, and then some.

The business suffers from an image that is unfavorable in the extreme. The confused self-deception of the real estate broker seeking to "do right," tempted by the "quick buck" and totally lacking the requisite training for the significance of his calling, was skillfully portrayed by Sinclair Lewis in *Babbitt*. The pompous, inflated self-perception of many in the business was artfully reflected by Kurt Vonnegut's Doctor Pond in *Player Piano*. Notably, the real estate industry is unique in having been the subject of a feature analysis ("Is Babbitt Dead?") on its self-image in the *Harvard Business Review*. All too many are attracted by the high leverage opportunity to engage in larceny on a grand scale. Although for many years there has been a clear indication that many prevalent behavior patterns have no legal underpinnings, too many think that association with real estate is a license to engage in dubious business practices.

CAREER CHOICE BY DEFAULT

While the conditions in the business as portrayed by John MacDonald in *Condominium* are attributable to many forces, there is no question that a major problem is the extraordinary chasm between the professional theme that so many preach but do not practice. Too many participants have an insufficient educational background and, indeed, real estate is not exactly a primary career choice. The incidence of college graduates selecting real estate as a primary career choice is only a relatively recent phenomenon and as one participant observed, "real estate is the kind of career you fail into." After many become disenchanted or do not achieve what they aspire to in other business areas, they go into real estate.

Given the poor state of preparation for real estate, it is not surprising that the problems are as severe as they are. Indeed, most participants are distressingly naive as to the role economic analysis can play in decision making. Analysis that is done is too often characterized by questionable assumptions, incorrect data, conceptually illegitimate models, dubious motives, perverse ethics, fraudulent representations.

CHALLENGE TO THE INDUSTRY

The real estate sector faces a major challenge. To date, the trade association's role can hardly be characterized as in the vanguard of change. Dominated by change opponents, they more often exacerbate than alleviate the problems. Of course, whether or not those in the real estate sector choose to change on their own is essentially immaterial—for society is changing the groundrules under which the game is played. Those who don't learn the new rules will be left sitting on the bench of if they persist in their outmoded ways, evicted from the games. For some in the business, it is a shocking readjustment. As an offset, recent economic events and legal development have thinned the ranks to the point where the quality level of those new in the business has been materially upgraded.

It is notable that *Condominium* has generated relatively little comment in real estate circles. Few have heard of the book, let alone read it. Of those who have read *Condominium*, only a handful see any relationship of its message to forces of change that are transforming the business. This lack of appreciation of the message, and worse, ignorance of the book's existence are a sad reflection of the attitudes of many in the business.

While *Condominium* is not "great literature," it does represent provocative social comment on a major sector of the economy. It will influence public attitudes and suggest directions of future regulation and litigation. The book's reception in the real estate community is consistent with its portrayal of that community. Effective participation in the real estate business requires sensitivity to significant public policy issues and major changes in the social and cultural environment.