

Toronto Star

## Cancellation leaves buyers of pre-construction condos priced out of market



By [Tess Kalinowski](#) Real Estate Reporter

Sat., Nov. 11, 2017

When he went to pick up registered mail on Oct. 30, Mickle Lynn was expecting a package from his mother. It was his birthday. But what he received was an envelope that shattered his dream of home ownership.

Lynn was among the buyers of Museum Flts who received a cheque last month refunding their deposits along with a letter from developer Castlepoint Numa saying the 168-unit condo was cancelled.

In a city where pre-construction condos are one of the few relatively affordable home ownership options, cancellations and failures are a reminder of buyers' vulnerability.

Fortunately, those instances are rare; only 23 projects with a combined 4,121 units have failed to complete since 2012, according to Shaun Hildebrand of Urbanation, a market research firm.

Of those, 1,543 units in five projects were cancelled this year. Some of those sites have been sold and will go ahead in some other form. Most of the cancellations are a result of zoning issues or rising costs relative to the homes' initial selling price, Hildebrand said.

Rarer are developer failures such as Urbancorp, which left buyers in a line of creditors at the receiver's door, years after many had put down deposits.

In the letter that came with refunds to its buyers, Castlepoint's Alfredo Romano, who declined to be interviewed, blamed slow city approvals for making Museum Flts "untenable."

The timetable "has rendered the project commercially un-financeable," he wrote.

According to Castlepoint, construction costs had risen 13 per cent while the company waited for approvals of its draft plan of subdivision, site plan, minor variances and building permits.

It is almost certain another project will replace Museum Flts near Bloor St. and Lansdowne Ave.

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"I have no doubt this will still happen. It's still going to get built," said Davenport Councillor Ana Bailao.

"These are a lot of jobs in my community and a lot of good residents. This building had a daycare. Do you know how desperately in need of daycare spaces my ward is? We're one of the priority areas," she said.

Even if the Museum Flts buyers get first dibs on a new project, they will pay more. Condos that went for about \$600 per square foot last year, are now selling for about \$830 per square foot within a two-

kilometre radius of Museum Flts, said Matthew Slutsky, president of the online development hub BuzzBuzzHome.

There is always a risk in buying pre-construction. But Museum Flts was all the more shocking because it was positioned as a landmark project by a developer who was gaining a reputation as a city builder.

It sold out based on its high design; plans for a new park; adjacency to the Museum of Contemporary Art Toronto Canada; and exceptional public transit access. The Junction Triangle neighbourhood, where the Museum Flts project is located, was recently named the city's hottest by Toronto Life magazine.

"Even though just a few (purchasers) live in the neighbourhood, you could feel the care and excitement, how much they already like the community," Bailao said.

Among the purchasers were three Star reporters, one of Mayor John Tory's sons and Giller-nominated novelist Anthony De Sa.

For Lynn, who earns about \$60,000 a year as a musician and teacher, Museum Flts was affordable. When the condos hit the market, he pounced, using the money from the divorce-related sale of a previous home to buy a 530-sq.-ft., one-bedroom unit. In the meantime, he's been living in a basement flat and working overtime to help pay for the condo.

Launched in June 2016, Museum Flts ranged from one to three bedrooms, priced at \$269,900 to \$586,900. The condos were scheduled for occupancy in March 2019.

"In the city, you really can't buy (even a small) condo for \$400,000," Lynn said. The disappointment and stress are taking a toll. When he fainted at a subway station on Nov. 3, his doctor said the incident was stress-related.

"I don't know what to do next. I don't have the money to be paying \$400,000 or \$500,000 for a townhouse or condo," he said.

Kurt Trowbridge, 34, who bought with his partner, Zak Osman, 38, says they, too, have been priced out of the market while the developer held their money for more than a year.

"We're still in disbelief," Trowbridge said. "The market has changed so much."

He said he felt sick about the cancellation. The couple had worked hard to save a deposit. They had shared their happiness with family and friends.

"I felt kind of ashamed telling people we made a bad investment," he said.

Jason Paris, 43, has been living with family while waiting for his condo but there are others worse off, he said.

"There are couples still living with their parents (that) planned their wedding timed to the condo closing. There is someone who was moving from London, England. There are people who have been impacted more than me, but it still sucks," Paris said.

At first, he wasn't too worried because he has a place to live while waiting for another opportunity. Then he realized that new, stricter mortgage rules that are being introduced in January will probably make it tougher to qualify for a more expensive home.

"I'm pretty much on my edge," he said.

But there wasn't much the buyers could have done to protect themselves, said real estate lawyer Bob Aaron.

Developers have good lawyers and standard contracts give builders lots of exit avenues. Given the competition for Toronto real estate, buyers didn't have any leverage to negotiate tougher contracts.

There is "nothing" to prevent the builder from refunding buyers' deposits and reselling the property for more, Aaron said.

"The development industry is a delicate balance of all the competing interests, including the municipal government, the provincial government, the builder, the buyers and the lenders. You've got all these balls in the air and if one of them drops on the floor, the whole thing craters," he said.

If the cost of construction goes up or the cost of borrowing rises, the project may no longer work financially, Aaron said.

But, he said, "the system has to favour the builder in a way."

It's probably better for buyers if the project is cancelled before it is built, rather than having a developer become insolvent as construction costs mount. In the case of Urbancorp, home buyers struggled to have their deposits returned under the receivership process as the real estate market galloped skyward.

"When is it better to cancel the deal? Now, or after everything's finished," said Aaron, who represented some buyers in the failed [Jarvis Mansions](#) about 10 years ago. Buyers there were allowed to opt into a later project but at higher prices. Meantime, their deposits were tied up for four years.

Even TV home construction expert Mike Holmes bought into and endorsed a project that went into receivership in February.

Holmes bought two units at market value in the On the GO Mimico condominiums by developer Louie Santaguida of Terrasan 327 Royal York and Stanton Renaissance. "We don't take working with people lightly," said Seth Atkins, senior vice-president of the Holmes Group.

"What attracted us to him was the innovation he was trying to bring to condominiums," Atkins said.

Holmes was particularly interested in the plan to install combined heat and power in the building that would have allowed it to sell energy into the grid while keeping its own energy consumption close to net zero.

"We were horribly disappointed to learn (Santaguida's) financing did not come through as was promised to us so we then dissolved that relationship," he said.

Although the building was resold, Holmes hasn't yet received a refund, he said.

Bailao, who has been meeting with Castlepoint throughout, said she doesn't know why Museum Flts was cancelled.

"There were some challenges but planning is a two-way street," she said. "Planning gives you feedback and some developers take it and present solutions really fast. Other ones try to make their point and push and push to get their way."

De Sa, who bought four units in Museum Flts, has already tried to buy into Castlepoint's previously cancelled Sterling Lofts project. He had planned the condo as a downsizing move for himself and his wife. The additional units were for each of their three teenage sons.

"We're seeing our children being priced out of that market. We just thought, 'Get in now,'" he said.

He also doesn't rule out looking at the future plans for the site.

“It really is the place we want to be,” De Sa said. “But I think before we did that we would need to have a sit down and really discuss where they were at in terms of getting all the approvals and the go-aheads and even then we’d be reticent because something still can come up.”

“If I’m going to be honest about the whole transaction I have to take responsibility for the knowledge that there is a risk,” he said.

**Correction – November 13, 2017:** *This article was edited from a previous version that referred to the Museum of Contemporary Art Toronto Canada by its former name.*