

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-297

Condo Smarts

Headline: First Nation Leasehold Condos

Topic:

Publication date: September 28, 2008

Publication: The Province

Written by: Tony Gioventu

Dear Condo Smarts: I bought a 2 bedroom condo on Indian land a few years ago. It was the right price, location, and the management worked incredibly well. Other owners who had been there for two years already happily endorsed the place. My real estate agent said it was just like any other condo except it was a lease for a long-term period. Well here I am four years later, our maintenance fees have exploded to over \$650 a month, everyone is arguing over who has responsibility over different repairs, we never receive any minutes of meetings or information from our managers, and several building emergencies have been left unattended for days resulting in serious damage. Is there anyone we can go to for help or intervention on behalf of all of our owners? Lynne Miller

Dear Lynne: Buying or leasing property on First Nations settlements is complicated and comes with risks that each buyer must evaluate before they enter into an agreement. An apartment or condo on a first nation's development in most circumstances is not like buying any other condo. You are not buying a piece of property, you are leasing a home which is not regulated by provincial laws that apply to strata properties. The developments are often created as associations/societies or companies under the Business Corporations Act. They are regulated by their constitutions and bylaws which is your limited protection to operations and governance. In one

particular First Nation's project I recently reviewed, the annual costs of operations, management, and financial planning is conducted solely by the elected board, not the collective owners. Owners were surprised when the board decided to hire an administrator for \$90,000 a year, hiking up their monthly fees by \$100 a month. You and your fellow owners need to contact a lawyer who is experienced with real estate transactions, contract relationships and the governance function of the companies or associations that were created to operate these developments. Potential buyers need to seek legal advice regarding the transactions, contracts and operational governance of the development before they sign on the dotted line. It can be difficult and costly to fix a problem after you have completed the deal. Closely review the bylaws for items that many of us take for granted. Check the procedure on financial approvals: who has the authority to change or alter the agreements, who controls the decision making, and how frequently financial information is reported to the owners. Find out what happens when a dispute arises and how it gets settled. Don't forget insurance issues. Clearly understand who has the insurable interest in the property and liability. Not all lease agreements are created equal. Many of the First Nation's developments function extremely well, but don't assume they all operate under the same bylaws and regulations.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.