

Condo Smarts

Headline: Liquidating our building?

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Dear Tony: We live in a 42 year old building that is really past its "best before" date. Our owners are struggling with the big question of what to do with our building, because we know we are facing about a million in repairs and upgrades. We are only 22 units, so that is going to place assessments around \$50,000 per unit. Had we started a depreciation planning process 10 or 20 years ago, we would have the funds we now need in the bank to renew our building and continue its use in a sustainable matter. We had an information meeting with the owners to talk about the options including funding and one owner has suggested we approach a developer and consider selling the building. Our current assessments for property value average around \$265,000 a unit, so if we are facing a \$50,000 assessment and we can get more for our units than \$215,000 it might be a viable option. Here's the challenge. Is it true that we need all 18 owners to agree to the liquidation and to sell their units? If only 1 person holds out, we don't really have any other option but to repair and upgrade the building. We have already had several long time owners approach us and indicate there is no way they are willing to sell, but these are also the same people that we know don't have the funds for the repairs and have historically blocked the long term planning that we have proposed. Any help on how to approach this situation would be greatly appreciated by our North Vancouver strata and I am sure the many other aging buildings around the province.

Stephen D.

Dear Stephen: Yes it does require a unanimous vote of all owners of all strata lots in a strata corporation to vote in favour of liquidation. It also requires the approval of

any charge holders. The *Strata Property Act* currently grants a provision where a court application made be considered if 5% or less of the owners are opposed, but this does not necessarily consider the economic feasibility, land use applications or personal financial risks associated with the liquidation, and it ultimately leaves the decision to the courts as to what is the best interest of the strata corporation. An earlier decision in the courts this year of an early condo type building in North Vancouver, did not grant the application for the order to liquidate, citing economics, lifestyle and community issues. In most circumstances, the owners rarely unanimously vote for the liquidation because the economic benefits are not beneficial to the owners, the post liquidation housing options are out of their economic reach, or they simply refuse to abandon their community. There are many issues that arise when a strata corporation considers the option of liquidating their property and considering whether to sell off to an investor/developer or to repair and renew their properties. To understand the dynamics of the liquidation option we have to consider the multiple interests and perspectives of the liquidation and sale process.

When is it the right time to consider liquidation? It all depends on the cost of repairs and renewals, demand for the property, the amount of living space in each unit that establishes cost of living space per square foot, and the cost benefits that the each owner will recover if they consider the liquidation of the strata corporation and sale of their units. It is tempting for a strata community who are facing large assessments to be lured into the sense of an easy solution when they are offered a discounted amount of

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money for their property. This is a critical time in the process for a strata council to investigate all of the options and consult with their owners before they go down the liquidation road. Just because a building is facing \$50,000 of repairs per unit does not discount the price of the asset value by \$50,000, nor does it increase the value by \$50,000 when the repairs are done. Each building requires an asset evaluation based on its specific value of the property for its best use and comparative current use. When a strata corporation is considering liquidation, either as a voluntary step or triggered by an offer, the strata corporation needs to immediately secure an independent representative who can provide legal services as well as direct them on the liquidation process. While strata council members and owners who are lawyers, real estate agents, insurance brokers or other professionals may be able to provide some direction, they are not independent, and are not necessarily held to the same standard of care as a retained professional. When the final deal is done, the strata owners want to be confident they had the best value and best terms for the liquidation agreement.

The liquidation of the strata corporation will have a dynamic effect on many of the owners and residents. This also means the dissolution of their communities that are often 20-40+ years in the making. It will be difficult for many people to consider a move or sale of their community. An information meeting with the owners is an excellent starting place, once the strata council understand all of the options and economic implications. As Stephen has mentioned, there is still the ongoing issue of housing affordability. If the owners do not manage to secure a sufficient settlement for their strata lots, they may not be able to purchase another home in the community, or may find they are relocating to a smaller community in the province where condo prices are lower. For many strata corporations and owners, older buildings requiring major

renewals create a significant dilemma. If they approve the major construction, they may not be able to pay for the special levy. If they approve the liquidation, they may not be able to afford a new home. As a result, many of the repairs or options for liquidating do not get approved, and the strata corporation is incapable of doing anything without the intervention of the courts.

In higher density areas, near shopping centers, transit hubs, and high density zones, the value of the developable property often makes it feasible for strata corporations to consider liquidation; however, the unanimous vote is still a major barrier. The BC Law Institute has an ongoing research project on the Strata Property Act. The first consideration for review and public consultation is a lower voting threshold to establish a decision on liquidation. The proposed threshold for consultation would reduce the vote to 80% of the total number of votes shown on the registered schedule of voting entitlement for each strata corporation. Public input is invited by going to www.bcli.org. Read the summary consultation and provide your feedback through the survey.

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