

Condo Smarts

Headline: Selling our strata

Topic: Buying & Selling

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Dear Tony: Our strata owners have recently been approached by a developer to consider selling our property as a whole for a new high rise. Our building is over 50 years old. It was originally a rental building and converted into a strata in the 70's. We have 48 units and at least half of the owners are interested in considering an offer for the building. We have also discovered there are quite a few games being played by the developer and the commercial broker we have spoken with. They are trying to tell us the condition of our building and the number of units on our property would make it difficult to offer more than the current BC Assessment values, and have offered to provide an engineer to do an assessment on the future costs to help us consider the decision. We have been given mixed information about the voting process, could you please explain?

Bob K.

Dear Bob: At this time, a strata corporation requires a unanimous vote resolution be passed at an annual or special general meeting to consider winding up and liquidating. A unanimous vote means a vote in favour of a resolution by all the votes of all the eligible voters, but this is really only one step in many before the sale of the property is concluded. If your strata is considering a vote on liquidation, it is important to consider that the BC Legislature recently passed an amendment to the *Strata Property Act* that reduces that number to 80% of the votes established on the Schedule of Voting rights for a strata. The amendments will likely come into effect in early spring when the regulations are completed, and the reduction in votes will have a significant impact in strata's successful vote, as several strata corporations have reached an 80-90% threshold, but at this time cannot move forward even with a court application without at least 95% in favour.

Before a strata corporation considers an offer, they will want to ensure they understand the sequence of events that will need to take place, and the number of meetings that will be necessary.

There are two options that a developer may consider in a strata liquidation. The first is simply for the developer to negotiate and purchase each strata lot directly from each owner. In a smaller strata of 2-20 units, this is possible and beneficial as it permits the winding up of the strata to happen without a liquidator, and does not require a "vote" of all the owners as a single property holder. If this is not possible, the strata will be required to vote on the liquidation, and a liquidator must be appointed for the winding up of the strata. The appointment of a liquidator is also a unanimous vote and will be amended to an 80% vote along with the new legislation.

Before you start, the most important professional you can hire is a strata lawyer experienced with the liquidation process and can guide you through the business steps ahead. A commercial appraisal may be required to properly establish best use value for your property. A commercial real estate broker may be retained to act on behalf of your strata to develop a tendering or negotiation process. The writing of resolutions for meetings, the review of contracts and agreements, the development of the resolutions for the liquidator and the sequence of the liquidation process, and the final transaction of the funds and the move of owners, all have complex legal demands, and can easily leave your strata in serious trouble if you miss a critical step.

We are currently working with 5 separate strata corporations who are at a variety of stages of redevelopment, all of which will require the appointment of a liquidator. In each case the current

condition of the buildings is irrelevant as the buildings are simply being torn down for redevelopment. The most serious challenge for each strata was not having an experienced lawyer from the beginning. The keys to successfully managing the process is retaining professionals who are acting only for your strata corporation, communicating directly and frequently with the owners, always ensuring that any information is factual and accurate, and for your strata council to understand the entire process so they obtain the approval of the owners at each stage of the project.