

Selling the Entire Condominium – New Easier Process in British Columbia

[In a prior post](#), we blogged about a 21-unit residential condominium in British Columbia where all of the unit owners agreed to dissolve the condominium corporation and sell the entire condominium to a developer. At that time, the law in British Columbia required the approval of all of the unit owners for this to happen. Not surprisingly, it was often difficult to get 100% approval and one dissenting unit owner could block the wishes of all other owners.

Since then, the [British Columbia Strata Property Act](#) has been amended by Bill 40 to allow a condominium corporation to be dissolved if a resolution is passed by an 80% vote at an annual or special general meeting. However, corporations with 5 or more units must apply for a court order confirming the resolution within 60 days of the resolution passed by the owners. The requirement for a court order was made to protect the rights of minority unit owners who do not want to dissolve. In determining whether to confirm the resolution, the court will consider the best interests of the owners and any significant unfairness that would result from the resolution being confirmed or not.

The [first case approved by the court](#) since the enactment of Bill 40 recently made the news. In that case two out of 30 unit owners voted against the sale, but neither one appeared in court to oppose the corporation's application for a court order.

Now that the owner approval has been lowered to 80%, it is expected that more older condominium corporations in British Columbia will be looking for a court order that will enable the sale of the entire condominium property, particularly those corporations that are facing huge special assessments in order to make necessary repairs and replacements to an aging property. Selling the entire property to a developer will also result in owners getting a higher sale price than they would get if they sold their units individually on the re-sale market.

Before the legislation changed, owners who opposed dissolution of the corporation and sale of the entire condominium were in a strong position to continue to remain in their homes. Now, some owners, particularly seniors, who expected to stay in their homes forever, will have no choice but to find a new home if the condominium corporation gets the requisite 80% owner approval and court order.

The new 80% threshold in British Columbia is in line with the approval threshold required in Ontario. In order for an entire condominium property in Ontario to be sold, the owners of at least 80% of the units (excluding parking and storage lockers) as at the date of the vote and at least 80% of persons having registered claims must consent to the sale. However, in Ontario no subsequent court order approving the sale is required.

In Ontario, any owner who has dissented in the vote authorizing the sale has the right within 30 days of the sale to submit to mediation a dispute over the fair market value of the property. If the mediator determines that the property was sold for less than the fair market value of the property, then all of the other owners that voted in favour of the sale will be responsible to pay their

proportionate share of the shortfall to the dissenting owner. Other than a dispute relating to the sale price, there is no right for dissenting owners to dispute the actual sale of the property if the provisions of the legislation have been complied with.

In both the Greater Toronto Area and the Greater Vancouver Area there is a shortage of sites available for condominium developers to build new high-rise condominium buildings. As a result, older low-rise condominiums, particularly those located in desirable urban areas, are attractive purchase targets for many developers.