

## Selling the Whole Condominium – A New Trend for Older Condominiums?

A [recent article in the Globe and Mail](#) reported about a group of condominium unit owners in British Columbia who had decided to sell the entire condominium to a developer. The condominium was 32 years old and consisted of 21 residential units.

For these owners, after considerable negotiations with the developer, the sale of the whole building resulted in each owner getting considerably more money than they would have received had they sold their units individually on the re-sale market. They were also spared the expense of special assessments for replacement of the boiler, major repair of the underground garage and dealing with pinhole leaks in the plumbing. In addition, as part of the deal, the unit owners were allowed to live in their units rent-free for a year after the closing of the sale to the developer.

A combination of marketplace factors led to this sale. First of all, developers in urban metropolises are finding that there is a scarcity of land on which to build new projects. For residents in older buildings, they are facing increasing costs to maintain and repair the condominium building. These increasing costs not only raise the monthly common expenses but can also result in hefty special assessments if the condominium's reserve fund is not sufficient to cover the costs of major repair projects. All of this negatively affects the market value of condominium units in older buildings.

This transaction was a win-win situation for both the developer and the unit owners. However, the owners acknowledged that it was not easy to get all the owners to agree to the sale. It took a couple of years of meetings and conversations before all of the holdouts were persuaded that selling to the developer was the best option for the owners.

In order for an entire condominium property in Ontario to be sold, the provisions of [sections 125 and 126 of the Condominium Act, 1998](#) must be complied with. 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 (i.e. any right, title, interest, encumbrance or demand, other than the interest of an owner in the owner's unit) as at the date of the vote must vote in favour of the sale. The proceeds of sale will be shared by all the unit owners in the same proportion as their common interests, except that those owners whose units have exclusive use common elements will share the proceeds attributable to the exclusive use common elements in the proportions in which their interests are affected.

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 section 125 have been complied with.

In the case of older condominiums facing huge repair costs, selling the entire condominium property as a whole may be an attractive option. However, the more units there are in the

condominium, the harder it will be to obtain the requisite 80% approval from the owners. Depending on their personal circumstances, some owners may prefer to stay and maintain the status quo.