



Condos in Financial Crisis

By Denise Lash on May 23, 2011

Over the past few years, more and more condominium associations in the U.S. have had to deal with issues that most have never had to face before; owners walking away from their condominium units due to the economic downturn and associations unable to meet their operating expenses because maintenance fees have not been paid by the owners.

Fortunately in Canada, condominium corporations have rarely had to face similar circumstances. Although owners may fall into arrears from time to time, most condominium corporations are able to secure the payment of those expenses by lien and have those arrears either paid by a mortgagee or the owner. The collection process enables the condominium corporation to collect arrears and pay the operating expenses to properly maintain the property.



Although the Condominium Act requires that condominium corporations conduct a reserve fund study and implement a plan for funding the reserve fund, there are some boards that ignore those requirements and continue to be motivated by "low maintenance fees". The result is that those condominium corporations produce annual budgets which fail to address required maintenance and repairs and then do not collect funds from the owners for current and future repairs. This in turn, creates a situation in which there is a size-able deficit in the corporation's operating expenses, depleted or no reserve funds and extensive repair costs to bring the property into a livable condition. It is at that point that owners find themselves in a situation in which they have little choice but to either walk away from their investment or contribute substantial funds to carry out the repair costs. The sad part is that those owners who decide to pay the required funds, will have little chance of recouping those monies paid if they were to resell their unit in the very near future.

This is the case with York Condominium Corporation No. 506, where the board should have raised common expenses many years ago to keep up with the operating expenses and the much needed repairs. These current owners are now paying for the mistakes of the previous boards.

On April 21, 2011, an application was brought before the Superior Court of Justice-Ontario, to appoint an Administrator to deal with the multitude of problems facing this condominium corporation. Just to name a few:

- Operating Deficit of \$670,000 which included arrears of water and gas charges



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- No reserve fund
- Urgent repairs required to garage- \$1.7 million
- Urgent roof repairs and roof anchors required
- 40 units with mould- urgent repairs required
- Balconies unsafe; urgent repairs required
- Many owners in arrears of maintenance fees and/or continually late

It will be interesting to see what the Administrator can accomplish and whether things can turn around for this condominium corporation. This situation would not have occurred if the board and property management had complied with the Condominium Act. Unfortunately, there is not much that owners can do if faced with this type of situation other than to commence legal proceedings to compel the board of directors to carry out their duties and obligations as directors or to appoint an Administrator. The outcome of those proceedings could result in the finding of personal liability on the part of any directors who contributed to the present state of the condominium corporation.

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