
Condo Smarts

Headline: What happens if our building is lost in a fire?

Topic: Insurance; When disaster strikes

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Dear Tony: Our strata in the North Okanagan was a total loss during the fires this summer. We have received a settlement payment from the insurance company for the loss, and owners are wondering what comes next. Do we rebuild, do we simply shut down the strata corporation and disperse the funds to everyone, or are there other options such as selling the property to a developer and owners can buy back in? There seems to be very little information available on this issue.

JB Green

Dear JB: The *Strata Property Act* refers to this matter when it is a decision not to rebuild. If the strata corporation chooses to not rebuild the project, it requires the owners to convene a general meeting and vote by three quarters to decide not to rebuild. However it is worth noting that the strata is not required to pass a vote to rebuild as that is the default expectation under the Act; however, the process of reconstruction is complicated, and not for the management of volunteers.

In most situations of an insurance claim the claims adjuster and insurance company manage the awarding of contracts to restoration companies and contractors, but in the situation of a total loss, it is easier for them to settle the payout as it is ultimately a decision of the strata corporation and its owners as to whether to rebuild or not. There are a variety of policies and conditions in place. For this reason it is essential your strata council obtain legal advice on your options and the requirements of the Act for you to move ahead with either a payout settlement to each owner or the process of rebuilding. Even the process and method of a payout to each owner is not 100% clear in the Act, and there is still the disposition of the property that will require an 80% vote of the owners to wind up the strata corporation and sale of the remaining land if that is the decision.

If your community chooses to rebuild you will need to consider a few variables. The completed demolition and environmental restoration of the land will first be required. You will then be required to submit plans, engineering specifications and a development application to the local government or regional district. Once those are accepted and approved, it will be necessary to retain a general contractor, developer, or project manager to oversee the construction. All of this will require time and funding, and will span a variety of legal agreements.

Before your strata corporation can make a decision, it would be prudent for the council to plan an information meeting with the owners, an experienced development/construction lawyer and construction consultant to work through the sequence of decisions, projected costs, and the project management. This may give your owners a clear understanding of the timing, funding and scope of work that will be involved, and better informed to determine their options. Due to delays in permits, development and construction the insurance proceeds may not be sufficient and your community may be required to raise more funds.