
Condo Smarts

Headline: Distributing wind up funds

Topic: Winding up a strata corporation

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Dear Tony: We live in a 26-unit condo complex in Burnaby. We have a large piece of land and have been approached by several developers interested in purchasing our strata property. Through the process of negotiating with the potential buyers we have come to an impasse over the method of funds being distributed once the sale is complete. Our building was constructed in the 1980's. Our broker has told us the funds would be issued based on our unit entitlement, the same formula we use for strata fees. Our lawyer has indicated that it would be based on a schedule of interest on destruction, which we cannot find or understand. With all this confusion, it is unlikely our owners will ever pass an 80% vote to move forward. How is the money distributed back to owners if the strata corporation does pass an 80% vote?

GPL

Dear GPL: The *Strata Property Act* has a clear understanding on what formula applies on the wind up of a strata corporation. There are 3 basic formulas. The formula that applies depends on when your strata corporation was formed, under what legislation, and whether a specific schedule was filed in the Land Title Registry:

1. If a strata corporation was created under the *Strata Property Act*, the formula that applies is the most recent assessed value of an owner's strata lot divided by all the lots in the strata plan, not including any strata lots held by the strata corporation. For example, this would be a caretaker suite or guest suites that are strata lots.

2. If your strata corporation was created under the *Condominium Act* or the *Strata Titles Act*, there are two possibilities.
 - a. If a schedule of interest on destruction (IOD) was filed on your strata plan, this formula is applied for the distribution of funds, and
 - b. if there is no IOD filed, the schedule of unit entitlement applies.
3. Interest on destruction was a formula created that estimated the comparable values of units based on location and asset values. An apartment with a large roof top deck as limited common property in connection with a 1-bedroom unit may have higher value than the same size 1 bedroom unit on the 2nd floor. Unit entitlement is the formula that applies to all common expenses and will apply in the absence of an IOD.

There is no perfect formula as we have 32,000 strata corporations across the province. A strata corporation is permitted to amend the schedule; however, this requires a unanimous vote of the corporation, which includes every owner voting in favour. While the demand for land development increases, the pressure for lower density strata corporations, with increased future repair repairs to wind up, is on the increase. It is essential for strata corporations to remain unified and retain experienced brokers and lawyers to navigate through the complicated wind-up process to negotiate your best terms and pricing.