

The following information is reprinted from the Wednesday, Jan. 19, 2011 edition of the Times-Colonist.

## Condo owners' folly costs tens of thousands

*TONY GIOVENTU Tony Gioventu is executive director of the Condominium Home Owners' Association. Send questions to him c/o New Homes, Times Colonist, 2621 Douglas St., Victoria, B.C. V8W 2N4 or e-mail [tony@choa.bc.ca](mailto:tony@choa.bc.ca). The association's website is [www.choa.bc.ca](http://www.choa.bc.ca)*

Dear Condo Smarts: I am the executor for an estate that includes a condo. To wind up the estate, I wish to sell the condo. However, I have encountered a problem that precludes doing so. The condo is on the top floor of a high-rise in Vancouver. Engineering reports detail a number of deficiencies requiring rectification at significant cost. Among the problems is the need for a roof replacement, elevator upgrades, siding water repairs and waterproofing, membrane failures, window and patio seals and waterproofing.

Total estimate for the maintenance and upgrades is about \$6 million. The strata council has twice proposed a five-year plan for doing the repairs and presented it to the owners. On both occasions the plan was rejected and at this juncture nothing is being done. Based upon the current engineering report, the levy would be around \$45,000 for all repairs. My problem is that under these circumstances, the condo is not salable. Moreover, as it is a top-floor unit, the roof leaks into several areas of the suite, causing extensive damages to the unit. Realtors are unwilling to show the unit to prospective buyers. Until this is resolved the estate cannot be wound up.

My question is: What legal responsibilities, if any, do the strata council and unit owners have to deal with this situation?

KTR, Vancouver

Dear Every Condo Owner in B.C.:

It only seems like yesterday that there were long lists of buyers vying for any opportunity to bid on a new listing, and the seller rarely had to worry about maintenance issues in a building. A slowing economy, tight restrictions on lending and mortgages, a credit crunch and a high inventory of units for sale has quickly and dynamically changed how consumers look at what they are buying.

For the average condo buyer, the operational history of the strata, the financial planning, maintenance and reserve planning are all becoming crucial elements in the final decision of whether to buy or not. Changes anticipated to the Strata Property Act and the regulations that apply to depreciation reports will also have a significant impact on the industry. Strata corporations will have to disclose whether they have commissioned a report or not, and if so, what the effect of the report will be on the strata.

The buyer will be looking at the asking price, and then considering a variety of other implications such as: How much will my unit cost me in the next five, 10 or 20 years in additional fees or levies? Does the strata corporation have a maintenance, renewal and financial plan implemented to meet those obligations? Do the bylaws or 75 per cent resolutions of the strata corporation support those future plans? In KTR's strata, they are no longer just experiencing routine maintenance and renewals. They now have building system failures, causing damage to other areas including strata lots.

At this time, because the owners have refused to pass special levies to do any of the repairs, an owner or group of owners has no choice but to make an application to the courts to force the repairs to be done. As a result, the strata corporation will not only be facing major repair costs, but also unnecessary legal and court costs. Their building is more than 200 units and 18 years old and now they are faced with major assessments from \$37,000 to \$53,000.

The whole point of depreciation planning is to avoid this disaster. For example: If they had added just \$40 a month to street fees over 18 years, they would have met half of their financial costs of renewals, likely avoided the major costs they are facing today and met their basic obligations of the act to maintain and repair common property. It's never too late to start for your strata. Budget for a reserve fund study and start an implementation plan for the future once you have it. To participate in public consultations for changes to the Strata Property Act and Regulations, go to the Ministry of Housing website and register online at: [housing.gov.bc.ca/housing/strata](http://housing.gov.bc.ca/housing/strata).