

Condo owners protest forced sale of their homes

New law allows condo building sales without unanimous consent of owners



Christine Raverty and husband Steve Handy believe they should not be forced to sell a condominium that they bought for their daughter, Krystal Wells | Rob Kruyt

Condominium owners who oppose selling their strata corporation's building, but are in a minority of less than 20% of owners, are becoming more vocal at BC Supreme Court hearings.

The rise in angry condominium owners has its roots in B.C. government changes to the Strata Property Act last year that allow owners of units in stratified buildings to dissolve the strata corporation if 80% of owners vote in favour of that action at a strata meeting.

The catch in the new process is that BC Supreme Court must approve the sale with the judge hearing dissenting owners' arguments that either the process was flawed, not transparent or included a conflict of interest or that selling the building would create an undue hardship for dissenting owners.

In the first cases that followed this process, dissenting owners buckled after losing the strata corporation vote and decided not to waste time and money on lawyers and court appearances.

That was the situation on March 27, when owners who did not want to sell their Twelve Oaks units at West 12th Avenue and Oak Street relented to the sale and [did not appear](#) at the final court hearing.

That case was the first in B.C. in which a court authorized the sale of a condominium building using the new rules.

At least two cases later this month, however, involve owners who intend to be in court with lawyers to help them halt condo building sales.

One case, on August 28, involves a 33-unit project at 1180 Cardero Street; another, on August 31, is for the 36-unit Bel-Ayre Villa, at 1790 West 10th Avenue.

“These two back-to-back hearings will be important to sort out what the court is going to do [when opposing owners make arguments in court],” said Hammerberg Lawyers partner Steve Hamilton, who represents owners in both cases who do not want to sell their units.

One of his arguments in the case of 1180 Cardero Street is that the strata corporation's law firm, Lawson Lundell LLP, “appears to have a very close business relationship with the developer [Townline] that is the prospective buyer for the property, and this was not disclosed to the owners,” Hamilton said.

Bel-Ayre Villa owner Christine Raverty told Business in Vancouver that the

sale of her building should not close because it will be an undue hardship for her daughter, Krystal Wells, who lives in the unit; the process was flawed; and the sale price is too low.

“We’re in this to win,” Raverty said of the court case.

She and husband Steve Handy bought the unit in 2012 for Wells.

In January, owners of 30 suites (83.33%) voted to sell the complex for \$19 million to BCIMC Realty Corp.

“The displacement of our daughter from her home, and the disruption of this event to her life, is the most important reason to oppose this process,” Raverty told BIV.

She listed a series of costs that she would have to bear to get her daughter into a similar home. Home prices have continued to rise since the three-storey wood-frame building’s sale was agreed to, meaning that the sale leaves money on the table.

Raverty expects to receive about \$750,000 for a unit that was assessed at \$441,700 as of July 1, 2016.

There are also realtor fees, legal fees, property transfer taxes, service reconnections and moving costs, Raverty said.

Raverty also fears that if her daughter needs temporary rental accommodation, she will not be able to keep her dog.

As for the process, although owners authorized the strata council in May 2016 to investigate selling the building, Raverty said owners never voted to give the council the authority to contract a brokerage to sell the property.

Nor did owners get the chance to see competing presentations from different brokerages to determine which one was best able to find bidders.

After Colliers International found four bids for the property, Raverty said owners were asked in January to vote for one of the four options without being given explicit instructions that abstaining would be considered a vote against all options.

The Condominium Home Owners Association of BC provides free presentations to strata corporations to educate owners about the new process for selling buildings, but Raverty said owners in her building were not given that opportunity. Nor did the strata council hire a lawyer early in the process to give owners necessary information on the process and different ways to proceed.

Strata council president Glenda Monts told BIV in an email that her lawyers at Clark Wilson LLP advised her not to comment for this story.

Clark Wilson partner Veronica Franco's petition to BC Supreme Court estimated it will cost \$200,000 to wind up Bel-Ayre Villa's strata corporation and complete the sale.

Her petition notes that owners will be allowed to stay in their suites for 12 months following the sale with four of those months being rent-free.

"A decision not to confirm the 80% vote resolution to wind up the strata corporation and cancel the strata plan would leave the owners obligated to incur significant costs to repair and maintain the Bel-Ayre Villa," Franco wrote, without providing an estimate of those costs.

Raverty, however, pointed to a 2012 depreciation report that estimated maintenance costs to be about \$2,800 per unit per year.

"There haven't been that many strata wind-ups that have gone to court," said Lawson Lundell LLP partner Peter Roberts, who specializes in strata law but is not involved in the Bel-Ayre Villa case. "We haven't seen many at all that have had lawyers on the [opposing owners'] side."

He believes that the most effective arguments that dissenting owners can make to stop a sale include that the sale would be a severe hardship, that the process was not transparent or fair and that there is evidence of a conflict of interest in the way that the broker or the buyer was chosen.

“If owners weren’t given sufficient notice of a meeting or weren’t given the contract, then, regardless of the merits of the offer or the vote, that’s grounds alone to say, ‘You didn’t comply with the requirements of the bylaws or the Strata Property Act, go back to Square 1 and do it properly.’” •

In addition to covering news stories about the new process for selling condominium complexes, Business in Vancouver produced a two part series on the issue earlier this year.

Part 1 focused on why the B.C. government changed the law to make it easier to wind up strata corporations and what the result has been. To read that, [click here](#).

Part 2 focuses on unintended consequences that stemmed from the government passing the new law, Bill 40. To read that story, [click here](#).

gkorstrom@biv.com

[@GlenKorstrom](#)