

Has your condo complied with reserve fund study?

Act leaves room to manipulate funding

Owners should understand board's approach

This year was a watershed for many Ontario condo corporations.

On May 5, any condo corporation that was more than 3 years old was supposed to have completed its reserve fund studies, according to rules under the new Condominium Act.

That means every condo corporation that existed on May 5, 2001 should have had an approved person or company perform a reserve fund study. Once received the board had to review the study and propose a funding plan within 120 days. Within 15 more days, a summary of the plan must have been sent to the owners of the condominium.

Unfortunately, there are many condos out there that have not complied with the act. If your board or corporation has not completed its reserve fund study, you should find out why.

The reserve fund study is a report that details the projected costs for major repair and replacement of the common elements of the condo corporation for the next 30 years. The study estimates inflation and interest rates to complete a schedule of recommended contributions by owners to the reserve fund each year through monthly fees.

The purpose of this new section of the condo act is to ensure that all Ontario condo corporations put away enough money to pay for all future major repairs and replacements. In the old act, the board was charged with



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Accountant Stephen Chesney says it's important that owners know if their condo has complied with law.

ensuring that the fund was appropriate; no specifics were given, and many boards just put in the minimum 10 per cent.

Unfortunately, the law was written in such a way that still leaves room for manipulation. Although the board has to create a funding plan, they technically do not have to follow the reserve fund study's recommendations.

The Act says that the board's funding plan must be made in such a way to ensure that the condominium's reserve fund is "adequate" within 10 years. Therefore, depending on the attitude of the current directors, they may not assess the owners the recommended amounts, putting off the inevitable to another day.

To understand what your condo is doing about this important financial issue, you must look at "Form 15" summary of the study that was sent by the board. There is a line in the report where the board tells the owners if they followed the recommendations of the study or have proposed another funding plan.

Technically, your reserve fund could be much lower than the balance called for in the study, and the board would still be in compliance with the Act. If you do see a large difference, ask the board for an explanation.

In many cases, the board disagrees with the preparer of the study as to future costs or even projected interest rates. In others, they have simply chosen not to accept the study's recommendations to avoid raising the monthly fees too much and upsetting owners.

Each situation must be examined individually, but in my opinion it is important to know why the choices were made. In too many situations, putting off the required increases is simply a matter of delaying the inevitable.

If your condominium was registered on May 5, 2001, or later, the board must ensure that the reserve fund is adequate by the end of the second year of the corporation. Therefore there is less flexibility with these newer condominiums and your board would have had to follow the study immediately.

I believe that many owners may be seeing increases in their monthly fees either today or in the near future as a result of this new law. As a current or potential owner you should be aware of whether the condo has complied with the law.

In my next article, I will be discussing the trend of rising monthly condominium fees and the reasons behind these increases.

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