

## Condo Smarts February 23, 2022

### Distributing Wind Up Funds

**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. 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. If your strata corporation was created under the Condominium Act or the Strata Titles Act, there are two possibilities. If a schedule of interest on destruction (IOD) was filed on your strata plan, this formula is applied for the distribution of funds, and if there is no IOD filed, the schedule of unit entitlement applies. 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 2<sup>nd</sup> 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 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. Sign up for the CHOA Tuesday Webinar Series open to the public at [www.choa.bc.ca](http://www.choa.bc.ca). Next week is "winding up a strata corporation".

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

Effective December 20, 2021 the Province extended strata corporations' ability to hold electronic meetings, without a strata bylaw, beyond December 31, 2021. This new extension will be in effect until December 31, 2022 unless the *COVID-19 Related Measures Act* is repealed before then. Thus, strata corporations are encouraged to adopt strata bylaws allowing electronic meetings if they wish to continue having that option.

Updated strata housing information related to the Province's Restart Plan and COVID-19 is also available at: <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/covid-19-and-strata-housing/covid-19-information-for-strata-housing>.

**Tuesday Lunch & Learn Live with CHOA:** CHOA is hosting a series of webinars. Join us on the following Tuesdays as we bring together industry experts to discuss the many issues affecting BC's strata community. January 25<sup>th</sup>: Communications and Fibre Optic Installations, February 15<sup>th</sup>: Pets, Pet Bylaws and The BC Human Rights Code, February 22<sup>th</sup>: Winding up a strata corporation. **Registration will open January 15<sup>th</sup> at <https://www.choa.bc.ca/seminars/>**

**COVID-19:** To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.