

BThe Vogue

Metropolitan Toronto Condominium Corporation #878

February 17, 2016 – Notice 2

Notice to Owners

under subsection 97(3) of the Condominium Act, 1998

Corporation will take ownership of most developer units; monthly cost will be added to common expenses.

Project name: “developer liened units”

Executive summary

1. The corporation is enforcing a condo lien on about 43 developer-owned units located on the garage levels. The corporation will assume ownership of these units in exchange for debt forgiveness and legal expenses. This is standard practice. At a later date, the best units might be sold to dwelling unit owners, if there are any buyers.
2. The individual common expenses for these units will be added to our budget and will be reflected in everyone’s common expenses. The present calculations for common expenses are as follows:

Type of unit	Estimated number	Monthly common expenses per unit	Total monthly common expenses	Annual common expenses
Locker	32	\$14.65	\$468.80	\$5,625.60
Parking*	11	\$24.34	\$267.74	\$3,212.88
Estimated total annual common expenses for developer liened units				\$8,838.48

3. This increase in our common expenses would be approximately **one-third of one percent (0.312%)** of our total annual budget (our annual budget is \$2,836,024.00 until June 30, 2016). The corporation will not impose a special assessment. For over 25 years, the corporation has quietly the unpaid common expenses for all of these units without even knowing it. The error was only discovered in 2010. It is time for us to deal with this fact and eventually, we will attempt to sell whatever units we can. Only a tiny handful of these approximately 43 units are saleable, but since the three debtors are all the developer’s companies from 1989, we are treating these units a single block rather than 43 separate debts.
4. Under Ontario law, the Board of Directors intends to undertake this project. To describe the project, we use conditions listed in the Ontario Condo Act 1998, which state that this project would be:
 - a) an addition, alteration or improvement to the common elements and
 - b) a change in the Corporation’s assetsHowever, at this point in time, this project would
 - c) not be described as a change in a service the Corporation provides to unit owners.
5. If you disagree with some aspect of this project, you should know that in accordance with subsection 97(3) of the *Condominium Act, 1998*, dwelling unit owners have the right, within 30 days of receiving this notice, to requisition a meeting of owners under section 46 of the Act for the purpose of holding a vote on whether or not to approve this proposed project. For your information, Sections 46 and 97 of the Act are listed on the other side of this notice.

Project description for “developer liened units”

- a. After the corporation assumes ownership of these lockers, we may attempt to sell as many lockers and parking units as possible; however the legal costs would be significant to both the corporation and to the buyers. Most (but not all) of these lockers and parking spots are very poor quality and the goal of this project is to finally achieve a proper accounting system, not to make a financial windfall. The common expenses will be officially added to the corporation annual budget, as shown above. The corporation will not be required to pay property tax on these units.

Dated: February 17, 2016	

Condominium Act, 1998

S.O. 1998, CHAPTER 19

Section 46

Requisition for meeting

46. (1) A requisition for a meeting of owners may be made by those owners who at the time the board receives the requisition, own at least 15 per cent of the units, are listed in the record maintained by the corporation under subsection 47 (2) and are entitled to vote. 1998, c. 19, s. 46 (1).

Form of requisition

(2) The requisition shall,

- (a) be in writing and be signed by the requisitionists;
- (b) state the nature of the business to be presented at the meeting; and
- (c) be delivered personally or by registered mail to the president or secretary of the board or deposited at the address for service of the corporation. 1998, c. 19, s. 46 (2).

Section 97

Changes made by corporation

97. (1) If the corporation has an obligation to repair the units or common elements after damage or to maintain them and the corporation carries out the obligation using materials that are as reasonably close in quality to the original as is appropriate in accordance with current construction standards, the work shall be deemed not to be an addition, alteration or improvement to the common elements or a change in the assets of the corporation for the purpose of this section. 1998, c. 19, s. 97 (1).

Changes made without notice

(2) A corporation may, by resolution of the board and without notice to the owners, make an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners if,

- (a) it is necessary to make the addition, alteration, improvement or change to comply with an agreement mentioned in section 113 or the requirements imposed by any general or special Act or regulations or by-laws made under that Act;
- (b) in the opinion of the board, it is necessary to make the addition, alteration, improvement or change to ensure the safety or security of persons using the property or assets of the corporation or to prevent imminent damage to the property or assets; or
- (c) subject to the regulations made under this Act, the estimated cost, in any given month or other prescribed period, if any, of making the addition, alteration, improvement or change is no more than the greater of \$1,000 and 1 per cent of the annual budgeted common expenses for the current fiscal year. 1998, c. 19, s. 97 (2).

Changes made on notice

(3) A corporation may make an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners if,

- (a) the corporation has sent a notice to the owners that,
 - (i) describes the proposed addition, alteration, improvement or change,
 - (ii) contains a statement of the estimated cost of the proposed addition, alteration, improvement or change indicating the manner in which the corporation proposes to pay the cost,
 - (iii) specifies that the owners have the right, in accordance with section 46 and within 30 days of receiving the notice, to requisition a meeting of owners, and
 - (iv) contains a copy of section 46 and this section; and
- (b) one of the following conditions has been met:
 1. The owners have not requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a).
 2. The owners have requisitioned a meeting in accordance with section 46 within 30 days of receiving a notice under clause (a) but have not voted against the proposed addition, alteration, improvement or change at the meeting. 1998, c. 19, s. 97 (3).

Approval of substantial change

(4) Despite subsection (3), the corporation shall not make a substantial addition, alteration, improvement to the common elements, a substantial change in the assets of the corporation or a substantial change in a service that the corporation provides to the owners unless the owners who own at least $66\frac{2}{3}$ per cent of the units of the corporation vote in favour of approving it. 1998, c. 19, s. 97 (4).

Meeting

(5) The vote shall be taken at a meeting duly called for the purpose of subsection (4). 1998, c. 19, s. 97 (5).

Meaning of substantial change

- (6) For the purposes of subsection (4), an addition, alteration, improvement or change is substantial if,
- (a) its estimated cost, based on its total cost, regardless of whether part of the cost is incurred before or after the current fiscal year, exceeds the lesser of,
 - (i) 10 per cent of the annual budgeted common expenses for the current fiscal year, and
 - (ii) the prescribed amount, if any; or
 - (b) the board elects to treat it as substantial. 1998, c. 19, s. 97 (6).

Cost of changes

(7) The cost of an addition, alteration, improvement or change that the corporation makes under this section shall form part of the common expenses. 1998, c. 19, s. 97 (7).