Buyer Beware, Part 2: Condos saved from ruin

BY ALLISON LAMPERT, THE GAZETTE FEBRUARY 24, 2012

Property managers Michael Chetboun (left) and Benjamin Remia at Château Nasso. When they were hired, "it was complete mayhem," Remia recalls.

Photograph by: Pierre Obendrauf, The Gazette

The Gazette's Allison Lampert will lead a chat with real-estate experts Mary Lamey and Daniel Rafuse Monday at noon, at live.montrealgazette.com.

MONTREAL - For a meeting of condo owners held two weeks before the Christmas holidays, the room at the Montreal Omni Hotel was unusually packed.

One owner had travelled from British Columbia for the sole purpose of voting on what would be a crucial decision for their downtown building. The choices were grim.

Each owner would either have 45 days to pay a special repair bill of about $100,000 per unit – more than a quarter of the value of most of the condos – or risk his or her entire investment.

The 47-unit Château Nasso, which had received warnings since the 1990s for failing to comply with the city of Montreal's fire code, could lose its insurance coverage.

"When I announced the voting results, that 95 per cent were in favour of the work, people applauded," recalled Michael Chetboun, one of the two co-founders of Sequoia Gestion Immobilière who took over in 2010 as the Sherbrooke St. W. building's property managers. "There was a lot of relief. Better this than losing everything."

The neglect of crucial repairs that would have cost a quarter of the price in the early 2000s, and a lack of regulatory oversight, illustrate many of the key problems now threatening the Canadian condo industry – the fastest-growing sector of residential real estate in large cities like Montreal and Toronto.

Aging condos, first built in the 1970s, are now in need of repair and owners of old and even new buildings will have to be more vigilant in Quebec where incidents of falling concrete slabs and crumbling infrastructure prompted calls in 2010 for the Régie du bâtiment du Québec to come up with specific rules governing building maintenance.

Yet across Canada, provincial laws governing condo maintenance have been decried as woefully inadequate, or non-existent, opening the door to possible fraudulent or incompetent managers, and placing key decisions for buildings worth millions of dollars in the hands of owner-volunteers.

"In the end, the whole system is relying on the good will of the owners," said Jean Lambert, president of the Chambre des notaires du Québec.

Concerns over these condo law deficiencies have sparked reform efforts nationally. In Quebec, Justice Minister Jean-Marc Fournier has announced plans to revamp the province's 43-year-old condo laws, which were last reviewed in 1994.

"This is happening right across the country," said Toronto attorney Armand Conant who heads the condo department of Shibley Righton LLP. "Provinces have either just revised their Condo Acts or are working on them now."

The timing is urgent. While new construction is expected to ease this year and in 2013, the number of Quebec households living in condos is still expected to swell to 266,000 by 2016, provincial data shows. And according to the Association of Condominium Managers of Ontario, there are at least 500,000 condo units in the province – with tens of thousands of new ones now under construction in the Greater Toronto Area.

When Chetboun and his partner, Benjamin Remia, were hired as general property managers by the Château Nasso's volunteer condo board, they were struck by the extent of the problems.

The marble floors of the 100-year-old building designed by the renowned Maxwell Brothers were filthy; hallways appeared to be dimly lit because the light fixtures hadn't been dusted in years. Flies swarmed over piles of garbage that were being improperly stored in the basement, while the building's two elevators would be shut for weeks on end because there was no money to service them, Remia recalled.

Reports and repair plans paid for with owners' fees were packed away in dust-covered boxes.

Condo fees hadn't been collected in months and the reserve fund was depleted from paying for common services.

"It was complete mayhem. Since there were no funds, the board of directors couldn't get anything done."

Yet the biggest challenge the property managers faced was getting approval to fix the building, which was last renovated during the early 1980s when it was converted from rentals to condos.

"We have owners with a variety of opinions," said resident Jean-François Boily, 45, one of three condo board members who bought his 1,500-square-foot unit in 1994. "Some were completely against the work, claiming it wasn't necessary, whereas others were for doing part of the work."

He said the greatest support for the work came from Boily and the minority of owners who actually lived at the Château Nasso, where most of the units are rented out to students. Now, the original $1 million repair estimate the co-owners received just over a decade ago has quadrupled to $4.3 million.

"That's the cost of procrastination," Boily said.

To bring the building up to code, two small elevators would need to be converted into a large one, while a new generator would have to be installed on the roof.

The staircase, which was completely open, would have to be moved back, with doors added at each landing so it would be self-contained to prevent fire and smoke from spreading. Even more challenging, repair work which got under way Tuesday, would have to go on with the residents still in their homes, Remia said.

Instances of buildings needing such extensive repairs are becoming more common in Montreal, real-estate observers say. Lawyers, notaries and brokers interviewed for this article say it's no longer exceptional for owners in older buildings to be hit with five- and even six-figure repair bills.

"Condos are like our roads, or any of our infrastructure," observed Yves Joli-Coeur, a lawyer specializing in condominium law at the Montreal firm DeGrandpré Joli-Coeur. "We don't have enough money in our reserve funds to repair them. So like our roads, it becomes like a time bomb."

Broker Liza Kaufman said owning a condo is no different from owning a house; maintenance and repairs are required costs.

"Why would someone assume that if they buy into the building, they won't have to put money into renovating the building, just as they would in their own home?" asked Kaufman, partner with Sotheby's International Realty Québec. "It's the timing. Maybe historically they (owners) haven't had to spend more, but now these buildings are aging. If you're moving into an older building, you'd better make sure that they're regularly maintained."

Indeed, owners will face even greater responsibilities, with the Régie du bâtiment poised to unveil specific new guidelines for building maintenance this year. At the same time, in their March 2011 report, a working group led by the Chambre des notaires called for clearer and stricter condo maintenance laws that would oblige owners to put aside more money for building upkeep.

Quebec law currently requires condo boards to maintain a reserve fund for repairs worth at least five per cent of the operating budget used to cover common services like day-to-day maintenance, and cleaning.

Instead, the working group –which includes notaries, real-estate lawyers and municipal housing officials – has suggested raising the reserve fund to one per cent of the building's total value, while obliging condo owners to keep a logbook proving that the building is regularly maintained.

For buildings large enough to afford them, professional property managers can act as a check and balance, providing crucial guidance to inexperienced or busy board members. But there have also been cases of managers stealing from clients or being simply incompetent.

Critics say that's because property managers in Ontario and Quebec aren't required by law to obtain any minimum qualification or government-issued licence to practise, even though they manage budgets worth hundreds of thousands or even millions of dollars. They can choose to join professional organizations that claim to promote their industry's best practices, but these are voluntary and not accountable to the public.

"These organizations don't replace having managers belong to a real professional order," Joli-Coeur said. "We shouldn't give a false sense of security to the public."

Alleged fraud cases involving property managers have made headlines in both provinces. In July, the board of directors for the Prince of Wales V condos in Notre Dame de Grâce won a $26,000 judgment against former property manager Jacques Paquet, along with his company Gestion Immobilière Paquet.

In Toronto, former property manager Mansoor Kahn was accused by his former condo board clients of misappropriating upwards of $20 million, before fleeing to Bangladesh, media reports said.

In the meantime, lawyers representing condo owners in both provinces are urging their clients to be vigilant.

"The issue of management wasn't as big a problem until we saw the explosive growth of condo buildings in Ontario," said Audrey Loeb, an attorney with Miller Thomson in Toronto. "One of the things we are starting to see is that people in the know are buying units based on who's managing them."

A year and a half after Chetboun and Remia arrived as managers at Château Nasso, the reserve fund has grown from nothing to more than $100,000. The marble floors now gleam and the landings are brightly lit, a reporter observed recently.

But their greatest achievement, Boily said, was securing a “yes” vote that December evening, after nearly two decades years of discussion, debates and studies.

What persuaded the residents to accept the pain of a $100,000 bill was the even higher cost of doing nothing, along with the recognition that the work would help their undervalued properties. Despite its location across from McGill University and spacious 1,500-square-foot apartments, the building was in such a poor state that real-estate brokers would deliberately avoid the Château Nasso, Boily said.

“I know some owners who sold their apartments for $350,000, or $375,000,” Boily said. “But this doesn’t reflect the value of the building with its prime downtown location.”

An independent inspector’s report said completing the work would automatically raise each apartment’s value by about $80,000; Chetboun expects they could go up by as much as $120,000.

Since that December vote, about 70 per cent of building owners have paid the special assessment.

“For me, it was practically a dream come true,” Boily said. “After 15 years, I didn’t believe we’d ever get the work done.”

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