



THE LAWRENCE[®] LETTER

News and information for clients and friends of Lawrence, Lawrence, Stevenson LLP

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Condo Conversion: Not Just for Apartments

Heather Picken

Ten years ago, Paul purchased a Brampton strip plaza of 30 small commercial stores. At first, the plaza vacancy rate was low, but increasingly he has had to deal with defaulting tenants and maintenance issues. Paul would like to retire and has considered selling the plaza, but his real estate agent says it will be difficult to find a buyer in these economic times.

Paul could consider converting his plaza to a commercial condominium and selling units individually, perhaps even retaining some of the units for lease. Paul finds this flexibility attractive but wonders how he would go about converting to condominium ownership.

While a commercial condominium conversion has fewer restrictions than a residential conversion, it is still a development process and must comply with such legislation as the Condominium Act, the Planning Act, the Ontario Building Code and the applicable Official Plan and Zoning Bylaws of the Municipality.

Rights of Tenants

Tenants have the right of first refusal to purchase the units, and if they do not want to buy, any new buyer must honour the provisions of the tenant's lease. Paul's lawyer should carefully review the leases to ensure that Paul's conversion plans would not breach any of his tenants' rights.

Structural Requirements

The Municipality will likely require a qualified engineer or architect's report on the structural and mechanical integrity of the buildings in the plaza, together with a list of any deficiencies that would have to be rectified to bring the building into compliance with current Building Code and governing zoning bylaws. The cost of any necessary remediation must be weighed against the potential benefit of being able to sell or lease the units individually.

It must be physically possible for each unit to exist as a self-contained, independent unit, so Paul will have to retain an architect and surveyor to define the



boundaries of each store in the plaza as a separate unit, including the treatment of windows, doors and ceilings. This can be a challenge, depending upon how the services have been installed in the building.

A standard unit will also have to be defined, so that the obligations of both unit owners and the Condominium Corporation for repair and replacement can be determined. This can also be a challenge, depending upon whether the tenant or the landlord paid for the leasehold improvements.

Common element areas must also be defined. These can include the parking areas and driveways, any landscaped areas, lobbies, elevators, public washrooms, garbage disposal areas and any mechanical or electrical rooms. Maintenance of common areas is usually the responsibility of the Condominium Corporation.

Disclosure

Before any binding Agreement of purchase and sale can take effect, Paul must work with his lawyer and surveyor to prepare a disclosure package for potential purchasers and existing tenants. It must contain detailed information, including a proposed declaration, description, bylaws, rules and budget. Paul must guarantee the budget and common expenses for one year after registration of the condominium. The disclosure must also contain

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