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Strata Conversions: an Option for Developers in BC

By [Lisa Hobman](#) December 5, 2007

When the supply of developable land is tight, opportunities remain for "new" stratified developments. Conversions from previously occupied rental properties to strata lots may be the most suitable option for urban developers looking for opportunities in today's real estate market. As the vacancy rate for rental housing in B.C. remains low however, municipalities are seeking to protect the existing supply. Accordingly, developers looking at conversion as an option should be aware of each step in the conversion approval process.



What is it?

A "strata conversion" occurs when a strata plan is registered at a Land Title Office in respect of a previously occupied, unstratified building, subdividing a single legal parcel into two or more strata lots plus common property. Conversions include both conversions of previously occupied residential buildings containing rental suites as well as conversions of previously occupied commercial, retail, office, industrial, institutional, recreational, or mixed-use buildings which have never contained residential accommodation.

Opposition in the Lower Mainland to the residential rental type of conversion, the focus of this article, has increased in recent years with a growing perception of a difficult rental market for residential tenants. Opponents of strata conversions argue that a moratorium on conversions, or at least a requirement on developers to include rental units in converted developments, must be implemented in order to preserve the otherwise decreasing number of available rental properties. However, the availability of rental units may not be shrinking as fast as is widely believed; vacancy rates calculated by organizations such as CMHC fail to include investor-owned condos that are rented out and unregistered basement suites – two major sources of rental accommodation. Some have estimated that these two sources account for as much as half of the City of Vancouver's rental units.

The motivation for developers to opt for a strata conversion is clear, as land values are skyrocketing, land availability is decreasing, and controls on rent increases remain.

From Start to Finish

Although there is currently no moratorium on conversions in place in the City of Vancouver, there are a number of hoops to get through in order for a developer to proceed with a strata conversion. **Legislation** governing strata conversions, the application of which varies somewhat from municipality to municipality, addresses two specific issues: (1) to protect the supply of rental housing; and (2) to ensure that buildings proposed for conversion are in a reasonable state of repair for residential occupation.

In addition to considering specific circumstances, the relevant approving authority must also ensure the proposed conversion complies with (a) applicable bylaws of the relevant municipality or district; and (b) the British Columbia building code regulations. Pursuant to the City of Vancouver's ***Strata Title and Cooperative Conversion Guidelines*** (discussed further below) before a conversion application will be considered by the approving authority, any development or building permits required by the developer in order to permit a change of use or to permit alterations or additions to an existing building must be in hand. Therefore, developers should factor in the time it will take for submission, processing, and issuance of development or building permit applications into their project schedules. Depending on the municipality where the proposed conversion is located as well as the state of repair of the building, these considerations can "make or break" a developer's case for conversion at the outset. The cost of bringing a building "up to current code" can be prohibitive.

Developers must look at several legislative requirements when considering a conversion. Although there are slight variations amongst municipalities, Section 242 of the ***Strata Property Act*** sets out the statutory requirements for municipal approval. The approving officer must consider such things as the priority of rental accommodation over privately owned housing in the area, proposals for the relocation of people occupying the existing rental property, and the life expectancy of the building. In an area where rental accommodation is in high demand, it is less likely that a proposal for a conversion will be approved. If a building is aged and in need of a great deal of renovation, it may not be in the best interests of a community to go through the conversion process.

Along with the statutory requirements, the City of Vancouver has issued the ***Strata Title and Cooperative Conversion Guidelines*** to guide the decisions of approving authorities for proposed conversions within Vancouver. Pursuant to the Guidelines, in order for an approving authority to give favourable consideration to a strata conversion application: (i) at least 2/3 of the households existing within the building must have provided their written consent to the conversion; and (ii) the interests of all existing tenants must have been adequately respected in the conversion process. As discussed below, the developer must take particular steps to advertise the proposed conversion and to obtain written consent from the existing tenants for the conversion.

It is likely that developers will be faced with resistance by at least some of the existing tenants. Developers should contemplate creative solutions to provide for the needs of vulnerable or less advantaged tenants. Not only is it a good idea to consider solutions both to ease the potential emotional impact of a proposed conversion on such tenants and to make the conversion more attractive to the approving authority, but the City of Vancouver's Guidelines specify that developers must include proposals for the relocation of people who may be affected by the proposed conversion in their application packages.

Pursuant to the Guidelines, the approving authority can unconditionally approve or refuse a conversion application, approve it subject to terms and conditions, or refuse it until such time as certain terms and conditions are met. Any terms or conditions will likely be aimed at the satisfaction of the two specific motivations behind the legislation governing conversions – protecting the rental housing supply and ensuring that buildings proposed for conversion are in reasonable states of repair. Any conditions imposed must be addressed by the developer within one year from the date of approval in principle; if not,

and the developer still wishes to proceed with the proposed conversion, a new application must be submitted. A decision by an approving authority on an application is final and if refused, the wait time before any similar application will be considered is one year.

In the City of Vancouver, a conversion application package should include the following:

- i. a non-refundable application processing fee, currently of \$3,581.00 plus \$10.00 for each unit proposed for conversion;
- ii. a letter setting out the property address and legal description of the proposed site and the names and mailing addresses of all of the people occupying the building (for distribution purposes, as discussed further below);
- iii. a site plan showing locations and dimensions of such things as site boundaries, existing and proposed buildings, and off-street parking (if any);
- iv. floor plans showing, for example, the dimensions of all rooms and hallways within the buildings and the areas within the building to be designated as strata lots, common property, and limited common property. (At this stage of the application process, the developer does not need to engage a surveyor to prepare a draft strata plan; a floor plan showing the proposed areas is acceptable);
- v. a statutory declaration, signed by the developer, stating that each person occupying the building has been provided with written notice of the intended conversion, the number of units occupied as of the date of the notice, that notices have been posted in conspicuous places in the building, and that each person occupying the building has been provided with prospective sale prices, sample management fees, and a copy of the declaration of building quality, discussed in (vi) below; and
- vi. a written report from a registered architect, engineer, or any other person, in a form acceptable to the city's building inspector, stating that the building is of reasonable quality for its age, including reference to the level of compliance with city bylaws.

Following receipt of the application, "response forms" will be issued by the approving authority to the developer, which must be distributed to and completed by each existing household in the building. At this stage, the approving authority will also send an information brochure to all occupants setting out the conversion guidelines as well as any other pertinent information. The City's building inspector and engineering department will have an opportunity to review the application and provide comments to the approving authority.

If the conversion application is approved, whether or not existing tenants are in favour of the conversion, developers must deliver formal lease termination notices. Section 51 of the ***Residential Tenancy Act*** permits the termination of tenancies in order to convert a residential property to strata lots, provided that the provisions for termination of tenancies set out in ***Section 49*** and ***Section 51*** are complied with. For the termination of a tenancy for conversion purposes, landlords must provide at least 2 months' notice to end a tenancy, unless the tenancy is a fixed term tenancy in which case the termination date must not be prior to the last day of the fixed term, and must pay a compensation fee to each tenant equal to one month's rent. Developers involved in or contemplating a conversion would be wise to consider these notice provisions when preparing their project schedules, especially in the case of fixed term tenancies.

The City of Vancouver's Conversion Guidelines estimate that conversion applications will take a minimum of 8 to 10 weeks to process. As discussed above, it should be kept in mind that the processing of an application takes place after many other steps have already been taken by the developer, such as obtaining any required building and development permits, communicating with existing tenants, and preparing floor plans for the proposed development.

If a conversion application is approved in principle, even if subject to conditions, at this stage, the developer may wish to engage a surveyor to prepare the proposed strata plans. Before the approving authority will sign off on the strata plan, all terms and conditions must be satisfied. Once the developer is confident that the conversion will be approved, the developer can then proceed through all of the usual steps for the marketing of a stratified development to purchasers, including preparing and filing a disclosure statement.

In municipalities other than the City of Vancouver, for the most part, the process for conversion approval is not as strict nor as costly and defined guidelines may not be in place. In addition, conversions may be more welcome. Therefore, if considering a conversion outside of the City of Vancouver, developers should contact the appropriate municipality to determine the particular conversion approval process.

Whether a strata conversion is right for a particular developer or a particular development will depend on specific circumstances, such as the location of the proposed development, the state of repair of the existing building, and the relationship existing or proposed between the developer and existing tenants. However, when land values are through the roof and space for new developments is minimal, developers should consider the feasibility of undertaking a strata conversion.



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