



Building Better Homes and Communities

www.actprogram.com

Affordability and Choice Today

ACT Solutions

Freehold Strata Title as an Affordable Housing Tool Centretown Affordable Housing Development Corporation, Ottawa, ON

Issue

Ontario's Condominium Act, created in the 1960s, is designed to address large developments and collective ownership and maintenance of shared amenities such as swimming pools and saunas. As such, it is poorly equipped to deal with mixed-use and small residential projects. The Act imposes requirements—such as posting bonds, letters of credit and other costs—that are hard for a small developer to carry. It can, for example, cost up to \$20,000 for legal and registration fees for a 20-unit building and several months for the registration process to be completed.

The Centretown Affordable Housing Development Corporation (CAHDCO) of Ottawa felt that the City of Ottawa should have the necessary mechanisms to register small, mixed-use residential projects in less time and with less

legal expense than through the condominium registration process. This type of registration is known as freehold strata title (FST), which is based on the principle that land can be subdivided both vertically and horizontally. The mechanisms should be in the City's Official Plan, its committee of adjustment and the attachment of conditions, such as how to deal with collective ownership.

Plan

CAHDCO's central purpose is creating affordable ownership housing. It received an ACT grant to develop a process that would enable a municipality to grant FST severance. The project would address legal, financial, surveying, marketing and title registration issues. The group also wanted to promote the advantages of FST over condominium title as a way to facilitate urban intensification and affordable housing.

Project team

CAHDCO
Annis O'Sullivan Vollbeckk –
surveyors
Soloway Wright – law firm,
City of Ottawa Development
Branch
City of Ottawa Planning
Department
(former) Regional Municipality of
Ottawa-Carleton Planning
Branch

Results

The project examined and documented the implications of FST in the provincial regulatory environment and from the viewpoint of municipal governance. The team canvassed municipal and regional planning officials and committee of adjustment representatives across Ontario to determine their experience with horizontal severances. There was no experience and no examples of FST being used to sever individual residential units.

It could work for you!

Program Partners:



There were, however, many examples of horizontal severances used to separate commercial uses within a project. There were also examples of the Ottawa Committee of Adjustment allowing a small area of horizontal severance associated with the vertical severance of side-by-side residences where a section of one is above the other.

The project team learned that the Planning Act does not specifically deal with FST and does not provide any specific guidance about FST issues to local committees of adjustment and/or land severance committees who might be asked to deal with FST proposals.

In the short term, the interests of the various parties involved in a freehold strata project could probably be safeguarded through conditions imposed by a committee of adjustment. For the long term, the team recognized that the Ontario Planning Act should be changed to specifically allow this kind of severance and to give committees of adjustment the authority to deal with it.

Accordingly the team proposed to the City of Ottawa's planning and development committee that the Official Plan be amended to establish a framework that would allow the committee of adjustment to approve applications for horizontal severances. Their proposal outlined the rationale for implementing FST and included a detailed list of issues the committee of adjustment would have to consider.

The City's legal department had reservations. The chief solicitor saw the lack of any mention of horizontal severances in the Ontario Planning Act as leaving the municipality open to liability should problems occur with FST.

The department therefore wanted legislative sanction from the province.

So the project team approached the provincial government to have the Planning Act amended. However, provincial authorities insisted that the issue came under the Condominium Act, even though it is not designed to deal with FST types of development.

Even though CAHDCO was unable to devote further time and effort to this project, the organization remains convinced that an amendment to the Ontario Planning Act is absolutely necessary to allow and encourage the use of freehold strata title. The purpose of the amendment would be to clarify the factors that should be considered by committees of adjustment in dealing with stratified severance requests.

Related report

Freehold Strata Title Project
(Centretown Affordable Housing Development Corporation, Ottawa, 2002)

This report is available from the ACT website. See "ACT projects & solutions".

Contact

Dennis Carr,
Development Coordinator,
CAHDCO
dennis.carr@ccochousing.org
(613) 235-2408, ext. 229

Affordability and Choice Today

Got a housing regulatory issue? ACT may already have a solution! Find out about ACT regulatory reform projects carried out across Canada:

www.actprogram.com

ACT Administration

c/o The Federation of Canadian Municipalities
Tel: 613-241-5221 ext. 242
Fax: 613-244-1515
E-mail: info@actprogram.com

The United Nations Centre for Human Settlements recognizes ACT as a top global best practice for improving the living environment.

ACT is sponsored by CMHC.