

## The hidden dangers of low condo maintenance fees

by STEVE LADURANTAYE — REAL ESTATE REPORTER • MAY 21, 2011  
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The three-bedroom condominium unit at 40 Panorama Ct. has everything a prospective owner on a budget could hope for – en suite laundry, two washrooms, an eat-in kitchen and access to a parking space all for less than \$150,000.

But in a city that is crazy for condos, the unit has been on the market for more than a month. Nobody is calling – there are 17 other units for sale in the 200-unit building, and the agents trying to sell them aren't doing any better.

The lack of interest has nothing to do with market conditions, and everything to do with a 30-year history of indifference by the residents who were content to keep condo fees low at the expense of necessary maintenance.

The roof is in need of repair; deep lines run along the parking lot's crumbling roof. The sauna hasn't worked properly in a decade, and the unpredictable elevators feature carpet-like material on the walls, which used to be white but is now an off-putting shade of beige.

The condo tower is just one of hundreds in the GTA that will need tens of millions of dollars in repairs in the coming years, as older buildings in less affluent neighbourhoods show their age. It's the dark side of the city's decades-long condo infatuation, and could prove devastating for many low-income condo owners who can't dig into their pockets to finance court-ordered repairs.

“This is a coming crisis that nobody is talking about,” said Chris Jaglowitz, a lawyer who specializes in condo law for **Gardiner Miller Arnold LLP** and a member of the Condominium Managers of Ontario. “You have all of these older buildings, and someone needs to pay for long-neglected repairs. And many people won't be able to cover their share.”

That's because condo buildings are owned collectively by the residents, and all repair bills are shared equally. Condo boards are able to levy special assessments in addition to condo fees to pay for projects. But the boards are made up of residents, who are sometimes motivated to keep fees low. And they serve short terms, which means long-term planning is often difficult.

The building on Panorama Court is a cautionary tale for condo owners everywhere. Residents – most of whom are immigrants – thought everything was fine until they received a letter from their condo board in mid-2010, telling them that millions of dollars were needed for upcoming repairs.

It came as a shock, because for the last 10 years, the board has been trying to catch up on years of neglect. They thought the worst of the work was behind them, after paying \$2-million in 2001 to refurbish parts of the garage.

“You can imagine what it is like to receive news like that,” says Roza Zarik, who has lived in the building for 12 years and now pays about \$900 a month in maintenance fees for her three-bedroom unit. “I understand the work needs to be done, I really do. If I thought I could sell and get what this place is actually worth, I would do it in a second, but I don’t even think a bank would let someone buy here right now.”

When the residents resisted the board’s plans to take out a multimillion-dollar loan for the needed repairs, the board brought the matter before an Ontario court judge so an administrator could take over and impose fees and break the impasse. It’s a rare thing, with only a handful of instances in Ontario.

“There have been a few others, but it’s very uncommon,” said Mr. Jaglowitz. “It’s not anyone’s first choice.”

The judge determined that the residents had turned a willful blind eye toward maintenance over the years, putting off important work for future owners to contend with as they kept fees low. They may have known things were going poorly if they had attended the building’s condo meetings over the years, but many don’t speak English.

“Everyone just minds their own business,” said resident Jenipher Hazlett, who emigrated from Kenya and considers English her third language. “Nobody expects something like that to happen.”

The judge had little sympathy for the residents as he affirmed Joe Vero of Joe Vero Property Management Services to handle the building’s finances and oversee its repairs.

“[The building] has suffered from years of neglect by successive boards of directors who, aided by the support or indifference of many residents, kept the

common expenses unreasonably low,” wrote Justice G.R. Strathy in a ruling earlier this month, “neglecting repairs and maintenance and postponing the inevitable day when the chickens came home to roost. That day has come and gone.”

Court documents show Mr. Vero moved quickly to right the ship. When Mr. Vero took over, he was faced with an operating deficit of \$670,000, a \$360,000 debt to the water and gas companies that service the tower, and an empty reserve fund. He’s putting together a construction proposal and taking a new look at increased condo fees, but he’s still encountering resistance from the tenants, who could be left paying tens of thousands of dollars out of their pockets to fund the projects. And it’s worse than they think – he expects they need to do \$4-million of work in the next two years. Describing the state of the condo as “not good,” he said that estimate is just for the most pressing work on the roof, balconies and parking garage.

“Many of the building components are original to the building and at the end of their physical life,” he said. “There are many other repairs and replacements which will need to be attended to after the immediate work is done . . . these items are not included in this figure.”

Current owners understand why the work needs to be done, but feel betrayed by all of the owners who have served on previous condo boards, and former owners who paid low fees over the life of the building but moved out before the problems presented themselves.

“We have been paying our money so you do have to wonder about where it all has gone over the years,” said six-year resident Anne Aungpelatt. “It’s so very sad that we need to live through this stress, to not know when the bills will stop coming.” The administrator has issued a special levy to take care of the deficits, and is putting together a plan so he can borrow \$3.5-million from a bank, to be repaid by residents as an additional charge on their condo fees. He has a year to get things in shape before the judge considers handing control of the building back to the owners.

The aggressive push to renovate and the administrator’s ability to raise fees and issue levies has scared residents out of the building – most of whom appear willing to sell for a loss to get out from under a never-ending list of repairs. Eighteen of the building’s 200 units are listed on the Multiple Listing Service, and recent sales have closed at 5-per-cent lower than owners were asking.

Ms. Zarik has extensively renovated her 1,200-square-foot, three-bedroom suite and she shudders as she looks at listings for units near \$100,000 because she figures hers is worth at least twice that much. But she can't imagine a new buyer agreeing to \$900 a month in condo fees, a figure that rivals those charged at some of the city's newest downtown towers.

She's also worried about receiving a repair bill that she estimates could cost her \$25,000 per unit – and she owns two in the tower. It's a daunting sum.

Others have less conviction. At least two of the units that are for sale are being unloaded by lenders that have taken possession from tenants who have walked away from the units. That could make a bad situation worse for those left behind, as empty units mean higher maintenance fees for everyone else.

“If I could just wave my hands and make this all go away, I would do it in a second,” she says. “But I'm here, and I'm here to stay. What other choice do we have?”