### SUBJECT:
**Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 125 Wellington Street North and 50 Cathcart Street (Hamilton) (PED09268) (Ward 2)**

### RECOMMENDATION:

That approval be given to **Condominium Conversion Application CDM-CONV-09-01, by IGW Reit, Owner**, to establish a Draft Plan of Condominium for 281 existing apartment units, located at 125 Wellington Street North and 50 Cathcart Street (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED09268, subject to the following:

(a) That this approval apply to the plan, prepared by Schaeffer and Dzaldov Limited and certified by O. N. Dzaldov, O.L.S., dated December 16, 2008, showing a total of 281 residential apartment units, an accessory variety retail store, and 254 vehicular parking spaces, attached as Appendix “B” to Report PED09268.

(b) That the following conditions shall apply to the Draft Plan of Condominium approval:

(i) That the Final Plan of Condominium complies with all of the applicable provisions of the applicable Zoning By-law.

(ii) That the Owner satisfies all conditions, financial or otherwise, of the City of Hamilton.

(iii) That the Owner shall submit a report in accordance with Section 9 (4) of The Condominium Act, 1998, prepared and certified by a qualified Registered Professional Engineer or Licensed Architect, to the satisfaction of the Chief Building Official of the City of Hamilton, to confirm the structural and mechanical integrity of the building and any Owner initiated...
measures required to correct any deficiencies prior to the release of the final plan for registration.

(iv) That the Owner dedicate to the City of Hamilton 1.524m from the subject lands adjacent to Kelly Street for road widening purposes, to the satisfaction of the Manager of Development Engineering, Planning and Economic Development Department.

EXECUTIVE SUMMARY:

The purpose of this application is to create a Plan of Condominium for 281 existing apartment units within a building located at 125 Wellington Street North and 50 Cathcart Street, Hamilton. The condominium conversion will allow for the tenure of the units to change from rental to condominium ownership. The existing tenants are protected under the Residential Tenancies Act.

The proposed condominium conversion has merit and can be supported, with conditions, as the proposal is consistent with the Provincial Policy Statement, Places to Grow Plan, conforms to the “Urban Area” policies of the Hamilton-Wentworth Official Plan, and the “Residential” and “Housing” policies of the City of Hamilton Official Plan.

BACKGROUND:

Proposal

This application seeks approval of a Draft Plan of Condominium to allow a change in tenure of the existing 281 apartment units located within the existing building at 125 Wellington Street North and 50 Cathcart Street to condominium apartment units. The 281 units are comprised of 92 one-bedroom units, 116 two-bedroom units, and 73 three-bedroom units, and a non-residential unit for a variety retail store. The individual apartment units, including balconies and unit parking spaces (total of 254 spaces), would form the exclusive use areas, while the remainder of the building, including hallways, laundry rooms, lobby, landscaped areas, access areas, and amenity space would form the common use areas (see Appendix “B”).
Minor Variance Application A-76:60

Minor Variance Application A-76:60 received final approval by the Committee of Adjustment in March 1976, in order to amend an approved Site Plan application to reduce the westerly side yard setback from the minimum required 13.72 metres to 4.57 metres and 2.44 metres, and to increase the maximum permitted gross floor area from 20,160 sq. metres to 23,876 sq. metres.

Location: 125 Wellington Street North and 50 Cathcart Street
Owner/Applicant: IGW Reit
Agent: Ridge Planning Group Inc. (Franz Kloibhofer)

Property Description:
- Lot Area: 0.65 hectares
- Lot Frontage:
  - Wellington Street North: 88.88 metres
  - Cathcart Street: 73.40 metres
- Lot Depth:
  - Wilson Street: 64.94 metres
  - Kelly Street: 75.56 metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>Apartment Rental Units and Commercial Variety Store</td>
<td>Downtown Multiple Residential (D6) Zone</td>
<td></td>
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</tbody>
</table>

Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Residential; Vacant Lands</td>
<td>Downtown Residential (D5) Zone</td>
</tr>
<tr>
<td>West</td>
<td>Residential</td>
<td>Downtown Residential (D5) Zone</td>
</tr>
<tr>
<td>South</td>
<td>Residential; Commercial Variety Store</td>
<td>Downtown Multiple Residential (D6) Zone; and Downtown Local Commercial (D4) Zone</td>
</tr>
<tr>
<td>East</td>
<td>Residential</td>
<td>“E” (Multiple Dwellings, Lodges, Clubs, Etc.) District</td>
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</table>

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
SUBJECT: Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 125 Wellington Street North and 50 Cathcart Street (Hamilton) (PED09268) (Ward 2) - Page 4 of 11

(i) It is consistent with the Provincial Policy Statement and Places to Grow Plan;

(ii) It conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan; and,

(iii) The proposal complies with the City of Hamilton Zoning By-law.

2. The housing policies found in the City of Hamilton Official Plan are intended to guide future growth and development, which includes the protection of a full range of housing, including rental housing, throughout the City. In this regard, Section C.7.11 of the City of Hamilton’s Official Plan identifies the following three conditions that must be satisfied in order to recommend the conversion of rental stock to condominium ownership:

(i) The rental vacancy rate by dwelling/structure type for the City and the respective local housing market zone has been at or above 2.0% for the preceding twenty-four months.

(ii) The proposed conversion will not reduce the rental vacancy rate by dwelling/structure type to below 2.0% for the City and the respective local housing market zone.

(iii) The existing market rent levels for the units proposed to be converted are not significantly below the average market rent levels for the City and the respective local housing market zone for rental units of a similar dwelling/structure type.

The Canada Mortgage and Housing Corporation (CMHC) provides annual statistical information on the national, provincial, and local housing markets. In order to evaluate the proposal against the above noted Official Plan policies, the City uses local housing market data that is specifically-ordered from CMHC (see Table 1 and 2).

Table 1: Vacancy Rate and Average Market Rents for One, Two, and Three-Bedroom Apartment Units in the City of Hamilton

<table>
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<tr>
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<tbody>
<tr>
<td>One-Bedroom</td>
<td>3.7</td>
<td>$624</td>
<td>3.5</td>
<td>$637</td>
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<tr>
<td>Two-Bedroom</td>
<td>3.9</td>
<td>$762</td>
<td>3.4</td>
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<tr>
<td>Three-Bedroom</td>
<td>2.7</td>
<td>$907</td>
<td>2.7</td>
<td>$900</td>
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</tbody>
</table>

Source: CMHC (2008)
Table 2: Vacancy Rate and Average Market Rent for One, Two, and Three-Bedroom Apartment Units in CMHC Zone 1 + 4 (Downtown and Central)

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<tr>
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<tr>
<td>One-Bedroom</td>
<td>3.6</td>
<td>$618</td>
<td>3.6</td>
<td>$633</td>
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<tr>
<td>Two-Bedroom</td>
<td>4.5</td>
<td>$776</td>
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<td>$780</td>
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<tr>
<td>Three-Bedroom</td>
<td>0.8</td>
<td>$951</td>
<td>0.9</td>
<td>$952</td>
</tr>
</tbody>
</table>

Source: CMHC (2008)

The subject property is located in the Downtown Hamilton (Zone 1) local market zone. As outlined in the above tables, the vacancy rates for the City of Hamilton for one, two, and three-bedroom dwelling types have been above the required 2% for the proceeding 24 months. Vacancy rates in the local housing market zones for one and two-bedroom dwelling types have been above the required 2% for the proceeding 24 months. However, the vacancy rates for three-bedroom dwelling types for the local housing market zones were 0.8% in 2007 and 0.9% in 2008, and are below the required 2% vacancy rate. Two local housing market zones were used in the analysis due to the small sample size of the three-bedroom dwelling types. In 2007, CMHC recorded a total of 557 three-bedroom units in the two local housing markets, and a total of 386 three-bedroom units in 2008. There is a smaller sample size for three bedroom units compared to the number of one and two bedrooms and, as a result, removal of the three bedroom units in the building from the overall rental universe will not be significant. As a result, the proposed conversion meets Conditions C.7.11 (i) for all bedroom unit types, and (ii) for one and two bedroom unit types, but not three bedroom unit types of the Official Plan.

The proposed units to be converted are currently rented at an average of $672.66 (one-bedroom), $839.92 (two-bedroom), and $975.42 (three-bedroom) per month. In this case, the differences between the average rents are -6.26% (one-bedroom units), -7.68% (two-bedroom units), and -2.46% (three-bedroom units) in the local housing market zone, and -5.60% (one-bedroom units), -8.38% (two-bedroom units), and -8.38% (three-bedroom units) in the City of Hamilton. The average rents in the existing building are not considered to be significantly lower than the average market rent for one, two, and three-bedroom units in the City of Hamilton and the local housing market zone. Therefore, the general intent of Policy C.7.11(iii) is being met for one and two bedroom unit types, but not three bedroom unit types.

In summary, the proposed condominium conversion conforms to the policies of the City of Hamilton Official Plan.
3. The new Urban Official Plan was adopted by Council on July 9, 2009, and is currently not in effect pending provincial approval of the Official Plan. However, certain policies in the new Official Plan assist in the approval of this condominium conversion application. Housing markets change due to the changes in demographic and economic conditions, and the new Urban Official Plan supports conversions of existing rental apartments to condominium. In addition, Section 3.2.1 identifies urban housing goals, which include providing a range of housing types, forms, and densities to meet the social, health, and well-being of current and future residents (Section 3.2.1.1), increasing Hamilton’s stock of affordable housing in areas of low levels of affordable housing (Section 3.2.1.3), and maintaining a balance of primary rental and ownership housing stock (Section 3.2.1.5). As this proposed condominium conversion provides homeownership opportunities for low income households, the proposal would conform to the Urban Hamilton Official Plan.

4. The applicant has been diligent in advising the existing tenants, staff, and the local Ward Councillor of their intent to convert the existing apartments into condominiums. The applicant hosted an Information Meeting on December 8, 2008, and invited all existing tenants and the local Ward Councillor. At the meeting, the applicant advised the tenants that the Owner intended to make an application to the City for the conversion of the subject property to ownership tenure. The applicant explained to the tenants the condominium conversion process, tenants’ rights under the Residential Tenancies Act, and provided an opportunity for the tenants to ask questions. A further information sheet was circulated to all tenants outlining the application process and the existing tenants’ rights under the Residential Tenancies Act, including confirmation that existing residents not committing to purchase their units will be allowed to continue to rent.

5. The recognized use of the property is for a 281 unit multiple dwelling. The subject property was rezoned to Downtown Multiple Residential (D6) Zone as part of the Comprehensive Zoning By-law Review in 2005. An existing commercial retail store existed prior to the rezoning of the subject property, and as commercial retail uses are not a permitted use in the existing zoning, it currently has legal non-conforming status.

6. In accordance with Section 9(4) of the Condominium Act, when an application is made to convert a residential building from rental to condominium tenure, the municipality shall require the owner/applicant to retain a qualified professional to inspect the property and report to the municipality all matters that it considers may be of concern. As such, in order to ensure the quality and safety of future residents, it is essential that the City receives an engineering report that is signed by a professional engineer or architect which will address all requirements that are set out within the present Building Code. As a condition of approval (Recommendation (b) (iii)), staff has recommended that the Owner submit a report to confirm the structural and mechanical integrity of the building, and implement any measures required to correct any deficiencies.
7. The existing road allowance on Kelly Street adjacent to the subject lands is approximately 12.19 metres, and the minimum designated road allowance in the City of Hamilton Official Plan is approximately 15.24 metres. Therefore, as a condition of approval (Recommendation (b) (iv)), staff has recommended that the Owner dedicate to the City of Hamilton 1.524 metres from the subject lands adjacent to Kelly Street for road widening purposes, to the satisfaction of the Manager of Development Engineering.

8. The Owner of the subject lands is proposing to offer homeownership to existing tenants and other low-income residents in the community, and as a result, achieve many of the various City policies as it relates to housing affordability. Homeownership is a goal for many families, however, many low-income families are unable to purchase a home due to the lack of funds to pay for the down-payment. The Owner of the rental apartment is proposing to sell individual units, at an affordable price, to allow tenants and other low-income households to achieve homeownership. It has been proposed by the applicant that the price for a one-bedroom unit will be $70,000, a two-bedroom unit for $88,000, and a three-bedroom unit will cost $99,000. The cost of each unit, and the financial assistance that the Owner will provide, will ensure homeownership is more affordable. For example, a total monthly payment for a three-bedroom unit will be approximately $676.85 (not including taxes and monthly condo maintenance fees), which is less than the current average rent for a three-bedroom unit, which is noted above.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed condominium conversion not be approved, the existing units will remain as rental tenure.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: The Planning Act does not require a notice of Public Meeting for an application for Condominium Conversion. However, formal notice was given to all existing residents.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes that the subject application is consistent with the policies that focus growth in Settlement Areas 1.1.3.1. In addition, Policy 1.7.1(b) outlines long term economic
prosperity will be supported by planning to allow the maintaining and enhancing the vitality and viability of downtowns and main streets.

Based on the foregoing, the proposal conforms to the policies of the Provincial Policy Statement.

**Places to Grow**

The application has been reviewed with respect to the Places to Grow Plan. The application is consistent with the guiding principles of Policy 1.2.2 with respect to building compact, vibrant, and complete communities, and providing for different approaches to managing growth that recognize the diversity of communities in the Greater Golden Horseshoe. In addition, Policy 2.2.2.1)h) encourages cities and towns to develop as complete communities with a diverse mix of land uses, and a range of housing types and easy access to local stores and services. As a result, the proposal conforms to the Places to Grow Plan.

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. In addition, Part A, Section II, the City has interests in providing for housing which meets the needs of the diversity of households throughout the City.

As the nature of the application is for the conversion of the existing rental apartment units into a plan of condominium, the proposal conforms to the Hamilton-Wentworth Official Plan.

**The City of Hamilton Official Plan**

The subject lands are designated “Downtown Hamilton” on Schedule “A”, Land Use Concept of the City of Hamilton Official Plan, and are subject to policies of the Downtown Hamilton Secondary Plan.

Section C.7.3.v) of the Official Plan supports residential development that provides tenure options and a range of prices for new dwellings that will be affordable to Hamilton residents. In addition, Section C.7.3.ix) supports the concept of a residential community that provides a diversity of dwelling forms and housing options that are accessible to all Hamilton residents. Also, Section C.7.3.xi) encourages the rehabilitation and renovation of dwellings as an alternative to demolition in appropriate locations and circumstances, having regard to the preservation and maintenance of the amenity of the residential area. The proposed condominium conversion will provide the necessary funds to permit any required maintenance and renovations as portions of the building need restoration.
As previously mentioned, the Official Plan also provides guidance in assessing the merits of proposed condominium conversions under Section C.7.11. These Official Plan policies have been addressed in the Analysis/Rationale section of this report. The proposal satisfies the conversion policies of the Plan.

**Downtown Hamilton Secondary Plan**

The subject lands are designated “Medium Density Residential” on Schedule L-1 and L-8 of the Downtown Hamilton Secondary Plan, and permits the existing residential use. Policy 6.2.6.1 Secondary Plan Objectives identifies that a diversified housing supply in the Downtown be created that will be geared to the needs of various age groups with increased opportunities for homeownership. Based on the foregoing, the proposal conforms to the Downtown Hamilton Secondary Plan.

**New Urban Hamilton Official Plan (Council Adopted)**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated “Downtown Mixed Use Area” on Schedule E-1 of the Urban Hamilton Official Plan, and permits the existing use.

Housing policies, as found in Section 3.2 of the Urban Hamilton Official Plan, support the proposed conversion of the existing rental apartment to condominium, as housing needs to change and evolve due to the changes in demographic and economic conditions, and that there must be a sufficient supply of housing with a range of affordability types. Section 3.2.1 identifies urban housing goals, which include the following:

- **3.2.1.1** Provide for a range of housing types, forms, and densities to meet the social, health, and well-being requirements of all current and future residents.

- **3.2.1.3** Increase Hamilton’s stock of affordable housing of all types, particularly in areas of the City with low levels of affordable housing.

- **3.2.1.5** Maintain a balance of primary rental and ownership housing stock, as outlined in the Affordable Housing Strategy."

In addition, Section 3.2.3.1, with respect to affordable housing, is met through this condominium conversion application, as this application will provide the opportunity for affordable housing through affordable homeownership.

The Urban Hamilton Official Plan also has policies with respect to condominium conversion of rental housing units, as found in Section 3.2.5.1. In addition, Section 3.2.5.3 will allow the approval of a condominium conversion where it is demonstrated that repair or retrofitting is immediately required to meet health and safety standards,
and if the income received from rent or other government assistance is not capable of supporting the work required.

As the proposed condominium conversion provides homeownership opportunities for existing tenants and residents in the community, the proposal would conform to the Urban Hamilton Official Plan.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections to the proposed conversion:

- Taxation Division, Corporate Services Department.
- Strategic Planning Section, Public Works Department.

**Housing Division - Community Services Department**

The City’s Housing Division has advised that the following Official Plan requirements for both the local housing market zone and City of Hamilton have been met:

1. The existing market rent levels for the units proposed to be converted are not significantly below the average market rent levels for the City and the respective local housing market zone.

However, the following Official Plan requirement for both the local housing market and the City of Hamilton has not been met.

2. Vacancy rates have been above 2% for the past two years (for three bedrooms units only); and,

3. The loss of stock does not negatively affect vacancy rates (for three bedroom units only).

As noted earlier (Comment 2, Page 5), the general intent of Policy C.7.11(iii) of the Official Plan is being maintained, since the CMHC has indicated that the sample size number of three bedrooms in the local housing market zones is very small, and the data is unreliable and should be used with caution. There is a smaller sample size for three bedroom units compared to the number of one and two bedrooms, and as a result, removal of the three bedroom units in the building from the overall rental universe will not be significant. The removal of the one and two bedroom units from the rental universe is anticipated to maintain the minimum required 2% vacancy rate. Finally, as noted earlier (Comment 2, Page 5), the vacancy rates for three bedroom units for the City of Hamilton as a whole exceeds the required 2% vacancy rate, as identified in the City of Hamilton Official Plan.
Traffic Section - Public Works Department

A site visit to the subject property has revealed that the access width located at Wilson Street does not match what is shown on the submitted plan. A standard entrance for a condominium complex is a minimum 7.5 metres in width, with a 7 metres radii.

Public Consultation

A notice of the tenant Information Meeting was sent to all tenants in the building, which includes a flyer and a FAQ information package (see Appendix C). A tenant Information Meeting was held on December 8, 2008, where all tenants and the Councillor were invited to attend. At this meeting, details of the proposal and of the tenants’ rights under the Tenant Protection Act were provided. There were 15 tenants in attendance at the meeting, and staff has received no form of opposition to the change in tenure.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The public is involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety is protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Provides for the opportunity of housing affordability and homeownership for low-income residents.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:TL
Attachs. (3)
Appendix "A" to Report PED09268

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: CDM-CONV-09-01
Date: August 24, 2009

Appendix "A" Scale: N.T.S.
Planner/Technician: TL/ND

Subject Property

125 Wellington Street North &
50 Cathcart Street, Hamilton

Ward 2 Key Map N.T.S.
November 24, 2008

IGW REIT has applied to the City of Hamilton to convert 125 Wellington Street from rental to condominium ownership. A number of upgrades are proposed and will be completed over the coming months. You are invited to attend an information session at The Order of The Sons of Italy Banquet Hall, at 499 King Street East on Monday December 8, 2008 at 6:30pm to discuss this process. We will have professionals in attendance to answer any questions you may have.

It is important to note that your current lease will remain in effect and that your rights under the Residential Tenancies Act will remain in full force. You will also have the opportunity to purchase an upgraded unit should you so choose or you may continue to rent the same unit for as long as you wish. IGW is developing a financing program for any tenant interested in purchasing a unit.

The attached information sheet outlines frequently asked questions with regard to condominium conversions. We will be available to answer any further questions at the aforementioned information session. We look forward to your attendance on Monday December 8, 2008.
FREQUENTLY ASKED QUESTIONS (AND ANSWERS)
CONCERNING CONVERSION OF A RENTAL UNITS
TO CONDOMINIUM OWNERSHIP

The following only applies to tenants who are tenants of the residential rental building at the time the residential rental property is converted to a condominium (these tenants are called “standing tenants”). Only standing tenants will enjoy the benefits described below.

1. QUESTION: Does registration of a rental apartment building to a condominium allow a landlord to terminate my lease under Residential Tenancies Act, 2006 (the “RTA”)?

   ANSWER: No.

   Section 4(2), (“Rights of Tenants”) of the Condominium Act, states that the registration of a Condominium shall not terminate or otherwise affect the rights of a standing tenant under the RTA. Therefore, any such person has security of tenure as a tenant.

2. QUESTION: When a building is converted to condominium and a residential apartment unit becomes a “condominium unit”, does the landlord/owner of such condominium unit have the right to terminate the residential tenancy of the occupant of the unit?

   ANSWER: No.

   Section 4(3) (“No Termination of Tenancy”) of the Condominium Act states that registration of a condominium does not constitute grounds for a landlord to give notice of termination under Part V of the RTA to standing tenant. Therefore, such tenant has security of tenure.

3. QUESTION: Is it true that a standing tenant obtains greater protection against termination of his/her lease on conversion the rental building to a Condominium?

   ANSWER: Yes

A.

Under the RTA, a landlord can terminate the tenancy under Section 48(1) on the basis that the landlord requires the unit for residential occupation by:

(a) the landlord;

(b) the landlord’s spouse;

(c) a child or parent of the landlord or the landlord’s spouse; or

(d) a person who provides or will provide care services to the landlord, the landlord’s spouse, or a child or parent of the landlord or the landlord’s spouse, if the person receiving the care services resides or will reside in the building?
Appendix “C” to Report PED09268 (Page 3 of 3)

Under Section 51(1) of the RTA when a rental building is converted to a Condominium, a landlord may not give notice to a standing tenant under any of the grounds in Section 48(1).

B.

Under the RTA, where a landlord signs an agreement of purchase and sale to sell the proposed condominium unit, the landlord can terminate the tenancy under Section 49(2) of the RTA on the basis that the landlord requires the unit for residential occupation by:

(a) the Purchaser;
(b) the purchaser’s spouse;
(c) a child or parent of the purchaser or the purchaser’s spouse; or
(d) a person who provides or will provide care services to the purchaser, the purchaser’s spouse, or a child or parent of the purchaser or the purchaser’s, if the person receiving the care services resides or will reside in the building, related group of buildings,..., in which the rental unit is located.

Under Section 51(1) of the RTA when a rental building is converted to a Condominium, a landlord may not give notice to a standing tenant under any of the grounds in Section 49(2).

Therefore, as a standing tenant (a tenant of the rental building at the time of conversion), you have greater rights to protect your tenancy.

4. QUESTION: Does the conversion process give the standing tenant an opportunity to purchase a unit when the conversion is completed?

ANSWER: The standing tenant now has a first right of refusal.

Under Section 51(5) (“Conversion to condominium, right of first refusal”) of the RTA, the landlord must provide a 72 hour notice of first right of refusal to the standing tenant where:

(a) a landlord/owner of a condominium unit receives an acceptable offer to purchase the converted condominium unit which is still occupied by a standing tenant; or
(b) where the landlord receives an acceptable offer to purchase a rental unit intended to be converted to a condominium unit,

at the price and subject to the terms and conditions in the offer to purchase.

The standing tenant therefore, has two advantages upon a successful conversion of his residential building to a condominium; firstly, greater security of tenure; and secondly, a first right of refusal.