

MarketNews

JOHN MORRISON'S PREFERRED CLIENT NEWSLETTER

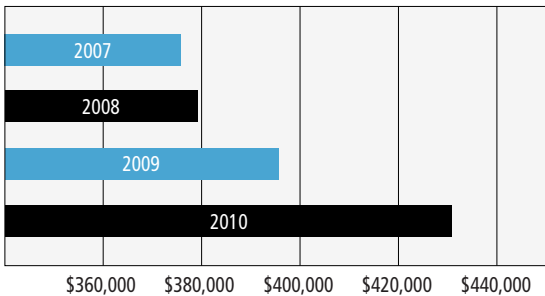
JAN/FEB 2011

2010 ANOTHER EXCELLENT YEAR

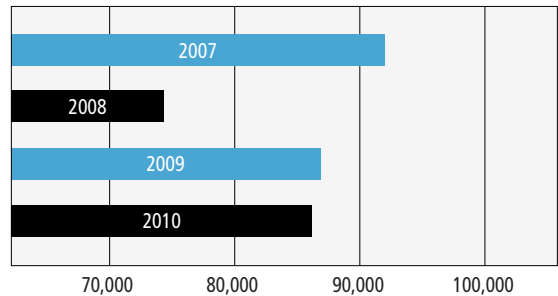
The average selling price of a resale home in the GTA during 2010 increased by 9% to \$431,463 and resulted in an increase of about \$36,000 in equity for the average homeowner. Using 2005 as a base year, the average price of a resale home in the GTA has increased by 5.2% per year during the past five years and has provided homeowners with a gain of over \$95,000 in equity. Considering that primary residences are capital gains tax exempt, in order to get an equivalent rate of return, another investment would have had to average 8% per year during the same time frame (assuming a 35% income tax rate).

A total of 86,170 homes were sold in the GTA during 2010, which was 1% lower than 2009 volume of 87,308. Having said this, 2010 was the third best year ever for existing home sales eclipsed only by last year and by the record-setting volume of 93,193 units which was recorded in 2007. New Federal Government-mandated mortgage lending guidelines, higher borrowing costs and misconceptions about the HST caused a pause in home buying in the summer months. As it became clear that the HST was not applicable to the sale price of an existing home and as buyers realized that home ownership remained affordable, market conditions began to improve later in the year.

GTA RESALE HOME SALES (AVERAGE PRICE)



GTA RESALE HOME SALES (UNITS SOLD)



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Condo Corner



Please find below brief case summaries of three court decisions in the Province of Ontario respecting condominium matters.

Peel Condominium Corp. No. 283 v. Genik (Ontario Superior Court) (June 27, 2007)

Owner ordered to remove satellite dish

The respondent owner had installed a satellite dish without consent of the Board. The Court found that the satellite dish contravened Section 98 of the Condominium Act, 1998 and accordingly ordered that the satellite dish be removed. The Court also found that the satellite dish violated the corporation's Declaration and Rules. The Court added the following: "This is not a situation in which mediation or arbitration is required. These are circumstances in which the evidence establishes a clear violation of the Act, the Declaration and the Rules."

The owner's primary argument was that a meeting of the condominium corporation (presumably to discuss satellite dishes) was to be held in the near future – so that consideration of removal of her satellite dish should be delayed until after the meeting. The Court said that this is "legally incorrect". The Court said: "There is nothing that can be done at any meeting of the condominium corporation that can change the fact (that the satellite dish was installed in violation of Section 98 of the Act), and such considerations are irrelevant."

Joseph Mikhail v. Essex Condominium Corp. No. 47 (Ontario Superior Court) (April 16, 2007)

Exclusive-use rights can't be transferred without an amendment to the Declaration

The applicant, Joseph Mikhail, was the President of the company that developed Essex Condominium Corporation No. 47. Under the terms of the Declaration (prepared and

registered under the direction of Mr. Mikhail), 25 exclusive-use parking spaces were allocated to Unit 6, Level 3. When Unit 6, Level 3 was sold to a purchaser, the purchaser signed a document authorizing Mr. Mikhail "to take all necessary steps to remove (24 of the exclusive-use parking spaces) from the appurtenant common interest of Unit 6, Level 3".

Mr. Mikhail then applied to Court for an Order transferring control of the 24 parking spaces to him (in order to allow him to grant those parking spaces to other purchasers). The Court dismissed the Application. The Court said that any change to the exclusive-use rights would require an Amendment to the Declaration, with the consent of the owners of 90% of the units, in accordance with Section 107 of the Condominium Act, 1998. There was no other basis upon which the exclusive-use rights could be "transferred".

Baliwalla v. York Condominium Corp. No. 438 (Ontario Superior Court) (June 22, 2007)

Small Claims Court decision overturned

The Small Claims Court had ordered the condominium corporation to repay to the plaintiff owner the "excessive" portion of a special assessment. On appeal, the decision of the Small Claims Court was reversed and the condominium corporation was awarded costs. The Appeal Court said: "The Baliwallas were asking for a refund of the amount not used in the assessment for the major repairs. They had no right to do so, as subsection 84(2) makes it clear that any surplus, which includes the receipts in question, shall be applied either against future common expenses or paid into the Reserve Fund. The Board's authorization to have the surplus funds paid into the Reserve Fund prior to its fiscal year-end was reasonable in the circumstances of the case before it."

These short case summaries were contributed by James Davidson. James practices condominium law with the law firm Nelligan O'Brien Payne. Please visit them at nelligan.ca



House Smart

The words “wet basement” are all-too-familiar to many homeowners. It is said that more than ninety-eight percent of all houses have had, or will have, basement leakage at some point.

Identifying the Problem

The presence of efflorescence, a whitish mineral deposit on the interior of foundation walls, indicates moisture penetration. It should be noted that the severity of the problem, or whether the problem is active, is not indicated by the amount of efflorescence. Other clues are rusty nails in baseboards, rotted wood near floor level, rusted metal feet on appliances, mould and mildew, lifted floor tiles, storage on skids, peeling paint and the presence of dehumidifiers.

Corrective Action

Poor surface drainage is one of the main causes of basement leaks. The ground should slope away from the house at a rate of one inch per foot for at least the first six feet. As a preventative measure, seal where the driveway and sidewalk meet the foundation walls. The eavestroughing and downspout systems must also perform properly. If downspouts are ever suspected of being disconnected, broken or clogged below ground level, they should be redirected to discharge above grade at least six feet away from the house. Also, eavestroughs should be kept clear of debris.

Localized low areas including basement stairwells, window wells, et cetera, may allow water to collect. Drains should be provided in the bottom of these. Where there are no drains, plastic dome covers over the window wells allow light into the basement while minimizing water and snow accumulation.

More Extreme Measures

In the vast majority of cases, basement leakage is not

significant from a structural point of view and can be controlled relatively inexpensively, as discussed above. However, the presence of foundation cracks, damaged perimeter drainage tiles, a high water table or underground streams may call for more extreme corrective measures. These measures are used when chronic flooding occurs.

Sealing foundation cracks can be performed several ways with the cost of repairs varying. The approach taken depends on the specific crack; however, the most successful approach is sealing from the outside. Urethane or epoxy injection repairs can be done from the interior on poured concrete walls only.

Excavating, damp-proofing and installing drainage tiles should be used as a last resort. Damp-proofing on the exterior typically involves parging a masonry foundation wall with a one-quarter inch layer of mortar covered with a bituminous or plastic membrane which extends down to the footings.

The drainage tile laid beside the footing is covered with gravel and filter paper. These tiles can often be damaged or clogged by roots and some localized repairs may be required.

Because excavating on the exterior is expensive, an alternative is an interior drainage system. The cost of this approach is one-third to one-quarter the cost of exterior work. There are many cases where this proves satisfactory, although this must be judged on a case by case basis.

Where underground streams and/or a high water table are present, sump pumps are usually required.

This article was contributed by Boulevard Property Inspection. Please visit them online at www.BoulevardInspection.com

TO MY VALUED CLIENTS

What will the resale housing market bring us in 2011 in terms of prices and volumes?

The major drivers will continue to be income growth (is the economic recovery sustainable?), interest rates (will we continue to have a positive interest rate environment?), affordability (will the Gross Debt Service ratio remain below most lenders' 32% 'rule of thumb'?) and population growth.

Most economists are forecasting incomes to continue to grow, but at a more modest level in 2011. A projection of 1.5-2.0% growth in household income is the consensus number. Interest rates are still expected to increase, but at a slower rate than originally expected given the Bank of Canada's success in dealing with inflation and given the tepid worldwide economic recovery to date. The GDS ratio is likely edge slowly back up to 32% in the year ahead which means that housing will still remain in the affordable range provided price increases are curtailed to the 3% range. Volumes should track population growth over the next two years, which means a slight increase.

Overall 2011 appears to be a solid year but price growth will not be nearly as substantial as it was in 2010. Volumes look to be solid but definitely not in the 'spectacular range'. The market also appears to be entering a more balanced phase as we enter 2011, which is a healthy development.

Of course, many things could occur over the next 12 months which could have an effect (either positive or negative) on this preliminary forecast. I will do my best to update you during the year of any major new developments which will have a direct bearing on the resale housing market.

That said, please accept my very best wishes for a very happy, prosperous and healthy new year! Finally, as usual, your client referrals are both highly valued and much appreciated. Until next time, take care!



PEARLS OF WISDOM

"Outside of the killings, Washington has one of the lowest crime rates in the country." – *Mayor Marion Barry, Washington DC*

"We don't necessarily discriminate. We simply exclude certain types of people." – *Colonel Gerald Wellman, ROTC Instructor*

"If we don't succeed, we run the risk of failure." – *Bill Clinton, President*



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