FEATURE Funds are piling up but tough regulations from spooked insurers make it hard to access the cash

Developers slow to tap deposit money

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British Columbia condominium developers have been slow to use new government legislation aimed at easing access to capital, even though they had been pushing for the legislative change for years.

The B.C. Liberals brought the Real Estate Development Marketing Act into force on January 1. That bill, which replaces part of the Real Estate Act, allows developers to use deposits from condo and townhouse owners to build housing projects.

From all indications, the deposits represent a deep well of cash. In the first eight months of 2005, 8,763 new strata units were started in Greater Vancouver alone and **Canada Mortgage and Housing Corporation** estimates that 75 per cent have been pre-sold. Even with a minimum deposit of $10,000 to secure a unit, buyer deposits in the region would represent more than $65 million.

Not worth the effort

"Developers are finding that it's not as good as they thought it was because of new insurance company processes," said **Clark Wilson LLP** partner **James Speakman**. "These processes require the developer to provide security by way of a second mortgage or other security to the insurer."

Speakman has helped two developer clients stickhandle insurance company regulations. He believes more developers will give the new funding mechanism a try once they better understand how the process works.

Westbank Projects Corp. owner **Ian Gillespie**, who has developed Coal Harbour housing projects such as the Dockside, agreed.

"I think it's because it's in its infancy that nobody's really jumping on it," Gillespie said. He has also heard that the hurdles developers must surmount are not worth the effort.

Another reason that developers have been slow to use their new financing option is that the cost of borrowing deposit money is not that much lower than traditional financing methods.

Administrative costs to use purchaser deposits tend to be between one and two per cent of the capital. Credit-worthy developers can usually borrow money from the bank at roughly four per cent, so the spread between those costs is not great and could be swallowed by the extra lawyer bills that accessing deposits might require, said **St. Paul Guarantee Insurance Co.** assistant vice-president **Ed Tsumura**.

St. Paul insures deposits for owners, so owners can rest assured that they will get their money back if the condo project goes belly up or is left half complete.

Tsumura has helped five developers use purchaser deposits to build housing projects in the Lower Mainland so far this year. Most of those developments were high-rise towers, because the time span between taking the deposits and completing construction is longer for that kind of housing, he said.

Tsumura dismissed the rumour that developers need to use hard assets as collateral before St. Paul gives them the green light to access the purchaser deposits.

Tsumura's insurance company allows developers to enter what he calls collateral mortgages. Essentially that means that St. Paul would be No. 2 creditor on the project after the construction company's lender, he explained.

"The developer takes five million dollars of deposit money and puts it into the project. If, at the end of the day, the project is never delivered to the owners and the owners come after that five million of deposit money in aggregation, we pay out five million. We'd have a collateral mortgage on what's there: a partially constructed development and the land on which the development is constructed," he said.

$1B in leak claims

New home warranty providers may also be spooked by a recent rise in reports of leaky high-rise condos.

Claims for leaky condominiums, which have already topped half a billion dollars, could surpass $1 billion, according to the provincial body established in 1999 to address the issue.

"We're probably a little better than halfway through the problem," said **Ken Cameron**, CEO and registrar of the **Homeowner Protection Office**, during the intermission at a recent public seminar for first-time condo buyers.

According to Cameron, about 65,000 units are affected. So far, the HPO has approved more than $518 million in no-interest or deferred payment loans and more than $14.3 million in provincial sales tax rebates, he said.

"Since these assistance programs were in place, nobody has had to lose their home because of an inability to pay for the repairs," said Cameron. "Many of the units and projects have recovered more than 90 per cent of their original value."

Wall Financial's Yaletown Park is among the Vancouver condominium towers that sold out before construction. Yaletown Park completes in the spring of 2007.

As of August 31, 13,958 homes had benefited from homeowner loans and 563 applications for PST relief grants had been received, according to the HPO's website.

Just over 27 per cent of the buildings that have received reconstruction loans were built in 1993 or 1994. That figure drops to less than eight per cent for buildings built between 1995 and 1997. Just over 10 per cent of the buildings were built prior to 1984. This year, however, there have been more reports of water damage in concrete high-rise condominiums.

And while the HPO is seeing fewer applications today, the average repair is getting more expensive for three reasons, according to Cameron:

- increased costs for repairing concrete construction projects, such as highrises, which are more complicated and expensive;
- condominium strata councils that either initially ignored or tried to hide the problem and, as a result, made it worse and more expensive to repair;
- construction costs have escalated for both labour and all types of building materials.◆