

Revocation of a juristic condo

A number of Thailand's condominiums were built many years ago and, depending for the most part on the quality of maintenance since their construction, are now in varying states of repair or disrepair. While some have been very well maintained, others have suffered damage to their structures or have deteriorated dramatically from long use and neglect.

The Condominium Act B.E. 2522 (1979) provides certain mechanisms for owners of condominium units to exercise their right to repair and restore a condominium, or even to revoke the status of the condominium registration if no owner wants to repair the damages.

The extent of damage sustained by a condominium will determine the vote needed from the joint owners to carry out repairs. If all or a substantial part (more than half) of a condominium has been damaged, more than half of the votes of all the joint owners are needed to enable the juristic condominium to repair the damages and restore the condominium.

If the condominium is partially damaged (less than half), only the majority vote of the joint owners of the damaged units is required. The cost of repairing damages to personal property will be the responsibility of the owners of the damaged units while repairs to common property will be shared by all joint owners.

If the condominium has incurred substantial damage and the joint owners do not wish to rebuild or repair the condominium, they may choose to revoke the condominium registration, sell the existing common property of the condominium, and then share the proceeds from such sale in proportion to their part of the common property.

The status of the condominium can be revoked if all joint owners unanimously pass a resolution to revoke the condominium registration. This means that all of the joint owners must consent to such revocation. Even if only one joint owner refuses, the registration cannot be revoked. Joint owners of a condominium have their own reasons for staying in a condominium and perceive the benefits of condominium living differently; therefore, it is almost

impossible for all of them to be of the same mind about revoking the registration.

Assuming that all joint owners are in agreement to revoke the status of the condominium, the juristic condominium shall file an application with the relevant land office for revocation of the registration within 30 days after the meeting of the joint owners. The juristic condominium will then be dissolved and the joint owners shall appoint a liquidator to manage the properties of the condominium within 14 days from the registration of the revocation.

The liquidator will have the power to dispose of the movable common properties unless the meeting of joint owners agrees otherwise, and the liquidation process must comply with the Civil and Commercial Code. On completion of liquidation, any remaining property will be divided among the joint owners according to the ratio of common property ownership of each one.

Once the registration of the revocation has been completed, the condominium title deeds will be revoked and the relevant land office will send a written request to all owners of the units to return their condominium title deeds within 30 days from the date of receiving the notice.

The land office will then take out the original land title deed (retained by it since the registration of the building as a condominium) and record the names of the joint owners as co-owners in proportion to their common property ownership together with details of obligations/encumbrances registered on any condominium title deed. Thereafter, the relevant land office will return the said land title deed to all the joint owners.

Foreigners who are recorded as co-owners in the land title deed must dispose of their portion of the said land within one year from the date of registration of the revocation. If they fail to do so, the director-general of the Land Department has the power to dispose of such land.

Written by Dussadee Rattanopas, Attorney, Commercial Department, Tilleke & Gibbins International Ltd. Please send comments or suggestions to Marilyn Tinnakul at marilyn@tillekeandgibbins.com.