

Lawsuit wants assets distributed to shareholders

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actual shareholder value is approximately \$100,000, which was what had been estimated in court documents filed in the minority-shareholder oppression-remedy class action.

Yet those looking to divest their shares in the club have only been offered a fraction of that amount in recent years and they can only sell their shares to other members.

"The recent (valuation) process will have a profound effect on our class action and it has a lot of implications, and the key outcome is that half the shareholders want to sell," said Noble, who resides in Victoria, B.C.

"The 50 per cent of the shareholders who do not want to sell also do not want to buy out the remaining 50 per cent. They just want to keep the money of the shareholders who do not golf and use it for themselves to continue to play inexpensive golf, tying up \$20 million of shareholder money for no reason other than they are too cheap to write a cheque."

Noble contends in the lawsuit that the North Halton share sales starting in May 2015 uniquely damaged the share equity value of non-member, nongolfing

shareholders while it merely subsidized the membership fees for golfing shareholders.

Several of the members of the class filed affidavits for the lawsuit, expressing their dismay over fruitless efforts to obtain what they believe is fair value for the shares.

"In my view, the club management and its board have conducted the affairs of the club for the benefit of the golfing members, with little or no regard to its primary obligations to the shareholders," said 82-year-old Leslie Hartford, a retired engineer who resides in Oakville and initially joined North Halton in 1971.

"I have a reasonable expectation that the board would make reasonable decisions to protect and maximize my investment as a shareholder in a for-profit corporation, and to treat all shareholders equally, fairly and responsibly, which has not occurred."

Noble added that by his estimates, the Oct. 4 vote revealed approximately 100 of the 325 golf shareholders voted yes to the sale of the club.

"What makes this even more astonishing is that one-third of these remaining core golf members are not shareholders," Noble remarked.

"For a club that has held itself out to the court to be an equity-member club in our class action, it is obvious that this no longer has any credibility."

Club president Rod Butcher said the board is aware of the plight of shareholders who aren't interested in playing golf and merely want to cash in their shares at a fair-market value.

"On the way through the (share valuation) process, we've heard a lot of comments from the shareholders and we've got some concerns that we need to address," said Butcher, who declined comment about the class-action lawsuit, other than to say "it is a parallel issue."

The next court date for the lawsuit is Dec. 8, in which Justice Edward Belobaba is expected to hold a conference to review developments from the valuation.

A summary judgement motion has been scheduled for February, at which point a resolution could be reached in the case.

The class action is asking for damages or other benefits for the class as an oppression remedy under the Canada Business Corporations Act. Noble is also asking for attorneys' costs, plus interest.



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legal matters | LITIGATION

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Q

I am married, but going through a separation. I have a pension. How is that dealt with?

A



Todd C. Hein
Litigation Lawyer

In the event of a break down in marriage, in Ontario, married spouses are entitled to an equalization of net family property. Essentially, a calculation is done to determine each spouse's net worth by looking at their respective assets and liabilities on the date of separation, and subtracting what each may have brought into the marriage, (although there are exceptions to this). A pension can be one of the most significant assets in a marriage, and it is considered property, so it is one of the assets that needs to be valued for equalization purposes. The spouse's pension should be valued pursuant to the *Pension Benefits Act*. The valuation will provide the "Family Law Value" or "FLV" for equalization purposes. The FLV will then be factored in to the calculation of the equalization payment to be made. If it is not possible to pay an equalization payment through some other means, it is possible to "split" the pension. When split, it will be transferred into either a LIRA, LIF or pension in the non-pension holder's name. Notably, there can be different rules that apply depending on whether it is a federal or provincial pension. We are a full service firm that does a lot of family law. We are happy to meet you for a free consultation about your matter at one of our three offices, including 8 Guelph Street, Georgetown, in the Lounsbury Life & Group Insurance Benefits building. Have a great weekend.

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