

Condo Smarts May 18th – 21st, 2016

How Sellers Verify Money Owing

Dear Tony: We recently sold our condo in Vancouver for 2.8 million and ran into a problem with our strata corporation and strata manager. The week our sale closed, our lawyer requested a payment certificate for the title to transfer, and the strata corporation refused to issue the certificate claiming we owed \$18,000 in water damages to the building. We were told that if our lawyer agreed to pay the amount on the completion of the sale, the certificate would be issued showing the amount owing and the condition of the payment. This claim evidently dates back to 2009, and the strata has been holding it on the books expecting to collect it at some point. We bought the property in 2011, and were never given any indication of the amount owing until we requested the certificate. The whole thing seems pretty shady to us, and we want to know how we can recover this money. Ed

Dear Ed: The payment certificate commonly referred to as a Form F, is often the best opportunity for strata corporations to recover debts without the need for court actions. However, this does not give the strata corporation a blanket exemption to extort old unresolved debts from previous owners as a condition of release of the form. A certificate must not include claims of damages against an owner which have not been determined by a court or arbitration, and subsequent owners do not assume the debts of previous owners. Even if the claim was valid, there is the matter of the limitation period which changed in 2013 to 2 years, and the strata would have exceeded the 6 year limitation period that would have applied in 2009, all of which has been compounded because they have done nothing about attempting to collect the amount. Check the Form B Information certificate you received at the time of the purchase. If there was any money owing, the strata had a duty to disclose it at the time. This is just one of the many reasons why buyers should always request Information Certificates. A sale with no subjects and no Form B is a high risk for a buyer to take.

There is a viable alternative for sellers, which will be enhanced when the Civil Resolution Tribunal is in effect later this year. Sellers are recommended to obtain a Form F, Payment Certificate as soon as possible to provide them with the time to request more information and challenge the amounts claimed. An owner is entitled to dispute the debt, and may pay the amount into trust to the strata corporation if court proceedings have started, an arbitration has been commenced or a claim under the tribunal, once enacted, has been commenced. This enables the vendor to proceed with the sale and retain the right to dispute the claimed amount. A Form F is valid for 60 days from the date it is issued, so don't wait. When you have an offer, request a Form F. It only cost \$15 plus the price of a few copies. When you dispute the claim, it is important to remember that you are entitled to copies of the records and documents of the strata corporation for the period you were an owner. If the amounts were not properly disclosed, not permitted, cannot be verified or limitations periods have expired, you may still consider a court action to dispute the debts within the 2 year limitation period.

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