

Condo Smarts

Headline: A Seller Risks
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Dear Condo Smarts: We sold our townhouse in August. Our sale price was for \$459,000, but after the transaction we were \$10,000 shorter than we had anticipated. The day before our transaction, our lawyer contacted the strata corporation for a copy of the Form F and when we signed the documents we discovered the strata corporation had included a \$10,000 insurance deductible that was a result from a broken pipe in our strata lot. We were told that because we waited so long we had no choice and were forced into paying the amount. Now we want to know if we can go to court to sue the strata corporation. We did not admit to any liability but the strata corporation charged us for a claim that resulted from a broken common irrigation pipe outside our unit that flooded our basement and the neighbour's basement. Are we permitted to sue the strata corporation after we have sold our unit?
Jordon W.Vancouver

Dear Jordon: The Form F, Payment Certificate, is a declaration of any monies owing by the owner to the strata corporation. When an owner requests a copy of the certificate, which is essential for owners selling their strata lots to facilitate Land Title transfers, the strata corporation must declare any amounts owing to the strata corporation, or amounts that are not owing, but have been paid into court or the strata corporation trust, or satisfactory arrangements have been made to pay any outstanding amounts. The strata corporation may charge a fee of \$15 for the form, and must provide the form within one week of the request of the owner. It is important for sellers and owners to request their Form F

well in advance of the sale so they can review any claimed charges and have the time to dispute them. The Form F is current (valid) for a period of 60 days, so waiting until the day before is simply too late. As the owner, it is important that you do not frustrate the sale at the last moment as a result of you or your agent not obtaining the documentation in a reasonable time period.

The strata corporation must not include claims of damages against an owner, which have not been determined by a court or by arbitration. Damages to property and insurance deductibles (damages) are not permitted to be included in the claimed amounts; however, the strata corporation may still proceed with a court action against the owner for the amount. Fines, and the costs of remedying the contravention of a bylaw or rule charged against the strata lot or fines and costs which an owner is responsible for as a landlord, may also be included with the form. Even after an owner sells their strata lot, they are still entitled to commence a court action against a strata corporation. Anyone who is selling their strata lot should request a Form F Payment Certificate as early as 60 days before the sale of the strata lot so they can review any claimed costs. In the event the strata corporation does include fines, penalties, costs or damages, you the owner have the ability to commence an action to challenge the claim, pay the amount into the courts, or pay the amount into trust to the strata corporation pending a dispute resolution process. Don't wait for your transaction, request the forms to find out what you might owe before it is too late.

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