

# Condominium Home Owners' Association

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Bulletin: 300-166

## Condo Smarts

Headline: Do we have to pay?

Topic: Buying -special levies

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**Dear Condo Smarts:** Before Christmas my wife and I entered into an agreement to purchase a home in Victoria.

In reading all of the minutes of the strata and the information certificate, we discovered that the strata was in litigation with an owner over an alleged significant miscalculation of strata fees and special levies.

Our agent, the seller and the council secretary advised is that the matter was going to be settled in mediation prior to Christmas and there was nothing to worry about. So we proceeded with the sale.

The strata now has an offer to settle the claim, which we are voting on next week. If the owners agree, the resulting levy will be more than \$5,000 for our unit.

We never anticipated that the costs could be so high. How could we have protected ourselves before we purchased? Shouldn't the seller have to pay this?

- Steve and Margaret

**Dear Steve and Margaret:** The first rule of thumb for every purchaser is always get everything in writing and from the right person. If anyone makes any claims, get them into the agreements for sale and purchase and obtain written verification from the agent and/or strata.

When you purchase a strata property, the liabilities and benefits of that strata property remain with that unit.

So if there is a payout, insurance deductible, special assessment or even a refund for settlements, they are applied to that strata lot.

The result is the owner on title at the time of the transaction either pays the costs or benefits from settlements. Alternate arrangements may be made with holdbacks in trust until the settlements are resolved, or agreements defining which party will pay or benefit from the proceeds. However, these are not agreements to be taken lightly.

It is critical that your lawyer represent your interests and negotiate these conditions for your protection and satisfaction. Then you, as the purchaser, must assess whether the risk is acceptable.

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