

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-174

Condo Smarts

Headline: You'll need a lawyer

Topic: Refunds

Publication date: April 23, 2006

Publication: The Province

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Dear Condo Smarts: In 2001, our strata corporation commenced a law suit for leaky condo damages, in the amount of \$3.5 million.

If we were successful it would have meant that our share of the award would have been about \$38,000.

We sold our condo in early 2005 with the written agreement of the purchaser, that if the strata received any proceeds from the settlement, that money would be sent directly to us.

The purchaser then sold the condo eight months later, in December.

Now we have found out that the strata has received a settlement but that the money was refunded to the current owners on title, cutting us out entirely. Doesn't our agreement take precedence? Considering we paid the special assessments, shouldn't we receive the refunds?

-- Marney H., Vancouver

Dear Marney: Many strata owners have experienced the same frustrations that you have experienced over refunds and rebates - not only in leaky condo actions, where the amounts were significant, but in insurance settlements, court action rebates and major construction such as pipe replacement and roofing where the projects have been completed under budget.

When owners sell their strata lot, they are also discharging their ownership and entitlement to the interests of the strata corporation.

To protect your interest, it will take a specialized legal agreement between the parties that may have limited conditions, time periods or circumstances.

The agreement you entered into was between the first purchaser and yourself, and not carried over to the next purchaser.

Because such an agreement cannot be registered on title, there would likely be no way of the next purchaser knowing of its existence, and the strata is not a part of this agreement.

The owner is a person who is defined as the person registered on title, at the time of the refund.

To determine if you have any remaining rights, I would recommend that you collect the original resolutions for the court action and the agreements and consult with a lawyer.

Anyone wishing to sell their unit during an ongoing court dispute or settlement process should talk to their lawyer and ensure your agreements protect your interests. But remember, once you sell your unit, you also discharge many of your rights.

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