

Condo Smarts

Headline: Why buyers should always request a Form B

Topic: Buying & Selling, Forms

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Dear Tony: We purchased a great condo in an older building on the North Shore. We have run into an issue with the strata council and we would like to resolve this as amicably as possible to avoid any conflict with our neighbours. When we purchased we asked the agent about the greenhouse/enclosure that was part of the common property patio area. Both the agent and the seller told us it has been there for the past 10 years and was approved by the strata corporation. What they didn't tell us was that it was an alteration subject to an alteration agreement, which means our strata lot is responsible for any costs associated with the alteration. We chose not to request a Form B Information Certificate to avoid the additional cost as it is not a mandatory requirement and the 2 years of minutes and information provided by the seller seemed sufficient. The upper glass area that is supported on the wall of the unit now requires replacing to the cost of \$5,000 for the glass and the repairs to the building. So who pays for the work? We have no one to blame but ourselves, but we're not sure it's entirely our responsibility.

Judy R.

Dear Judy: Buyers should always request a Form B Information Certificate, and not simply rely on the information the seller provides. Nothing requires a buyer to request the Form B, or minutes of meetings, or engineering and environmental reports, but unless you request documents how can you protect your own interests?

Essentially the Form B is information about: the strata, the strata lot, alteration agreements and allocations of property, financial information, the rules of the strata, rental disclosure conditions, approved bylaws, three quarter or unanimous votes that have been approved but not filed in the Land Title Registry or those that are

included in a notice of a meeting not yet voted on, court actions or proceedings, parking space and storage locker designations and allocations and the most recent depreciation report if any. The Form B provides not only valuable information, but also disclosure by the strata corporation of specific relationships such as alteration agreements and parking and storage locker allocations. Each of these subjects may have significant implications on the use of property or a financial impact that you had not anticipated.

Once you have the Form B and the attached information, read each document closely. An alteration agreement is a contract between the owner and the strata. The owner also has a duty to inform you about the agreement that would bind you in the future. If the owner had agreed to take responsibility for the associated costs, the buyer likely has those same obligations.

Next, have your lawyer look at the agreement. They are often created by a volunteer council or the owner trying to save a few dollars but they are often unclear how the costs are established and which party pays for what areas or services. Strata corporations also try to download the obligation of maintenance and repair of common property through alteration agreements; however, a strata is not permitted to make an owner responsible for the maintenance and repair of common property, only the cost of the related alteration agreement such as the alteration cost, licensing and permits and maintenance and repairs.

If you are a buyer, do yourself a favour. Pay for the forms, records and documents. Your next purchase should be a great experience not the one you regret.