

Condo Smarts

Headline: Form F

Topic: Form F

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Dear Tony: The property manager won't give us copies of the form F's and the form B's that have been issued in the last 3 years and told us we are not entitled to the forms because of privacy laws. We had an owner complain about a \$250 fine amount that they had to pay when they sold their unit, and we have no record of the fine. They moved in June and have sent the strata several letters requesting information about the fine that was put on their transaction form which they claim they were never aware of or ever caused. Even though we have a management company who takes cares of these forms shouldn't we be allowed to see the forms?

Brady F. Vancouver

Dear Brady: When an owner sells or is about to sell his or her unit, a Form F, Payment Certificate is required for the transaction in order to show whether any money is owing to the strata corporation.

The form is required to permit the title to transfer to the new owner and is valid for a period of 60 days. As a result, it is ideal for an owner to request the form as soon as possible. Requesting the form early will give the owner time to dispute any charges that are incorrect. It will also allow the owner to request a hearing before council, which must be held within 30 days of the request. If an owner disagrees with an amount on the form, the owner can also commence court proceedings and pay the amount disputed into court or into trust with the strata corporation. Alternatively, the owner can commence arbitration and pay the amount disputed into trust with the strata corporation. The court or strata corporation must hold the funds until the dispute is resolved, or the court otherwise orders.

Once the Civil Resolution Tribunal comes into effect, sellers will be able to pay disputed funds into trust to the strata corporation as they proceed with a claim at the CRT. Money owing such as strata fees, special levies, permitted interest, strata fines and user fees may all be recovered

and identified on a Form F, but damages and insurance deductibles may not.

When an owner has sold, the past owner is still entitled to copies of records and documents of the strata corporation relating to the period of time when they were an owner. The forms are the property of the strata corporation and strata council is entitled to copies of these forms. Many strata corporations require that copies of issued forms are provided to the strata council each month, so council can review the collections and reconcile the accounts. Elaine McCormack, a lawyer with Wilson McCormack Law Group in New Westminster, advises strata corporations to be actively responsible for their financial transactions. According to Elaine, "when a strata or the agent issues a form under the Act, the strata corporation has legally issued the form and any disputes will be directed at the strata corporation. The strata minutes and financial records should show decisions pertaining to fines and collections and there should be corresponding entries in the financial records. With a 2 year limitation period now in effect, strata corporations should not be waiting for an owner to sell in the hopes of recovering charges during a sales transaction. Strata corporations need to maintain a receivables chart of accounts to identify when the strata needs to file a court action for collections. If proper steps are not taken to collect amounts owing before the limitation period expires, the amounts will likely not be collectable.

If you are selling or have sold your home, don't wait to get a copy of a Form F Payment Certificate. The cost is only \$15. The sooner you have the form, the sooner you can review the claimed amounts. If the strata manager is not providing copies of the forms to the council on request, the strata council can file a complaint with the Real Estate Council of BC, as the agent must provide copies of strata records and documents to the strata corporation.