

## Strata Living

Headline: Who gets the refund?

Topic: Refunds

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I sold my condo in the summer of 2010. At that time we were halfway through major repairs but it was anticipated we would receive a rebate as the project was under budget. I just found out that the buyer sold a year later and the new owner, in the fall of 2011, received a cheque for a \$4,800 refund. Our sales agreement with the buyer in 2010 stated that we would receive any refunds from the project and we filed a copy of that agreement with the strata management company. We contacted the new owner, who was sympathetic but understandably said she knew nothing about the agreement and advised we contact the management company. The company said it was not their problem as we had sold the unit and no longer had a claim to the refund. Is this true? It seems unfair since we paid the amount in the first place.

*Francinca L, Surrey*

**Dear Francinca:** The strata must refund any surplus of a special level where any owner is entitled to receive more than \$100, based on their unit entitlement. The owner is defined as the person who is registered on title at the time the refund is due. While you may have entered in to a contractual agreement with the buyer, that agreement itself is not binding at the time to be a party to this contract. If the buyer had not sold, the strata management company may have contacted you and the buyer, and would still

have required the buyer to sign a release before they could issue you a refund. Negotiating rebates or lawsuit proceedings in contracts of sale and purchase can be very complicated and may have definite limitations, especially if the parties of the contract change, and are no longer the recipients of the funds. If there is a defect in the agreement, resulting in your loss of the refund, you may have some claim with the person who wrote the agreement, but a better solution is always to get the best settled closing price without the strings attached. If you do insist on an agreement for proceeds, consult with your lawyer on the terms and conditions of the agreement, before you sign.

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