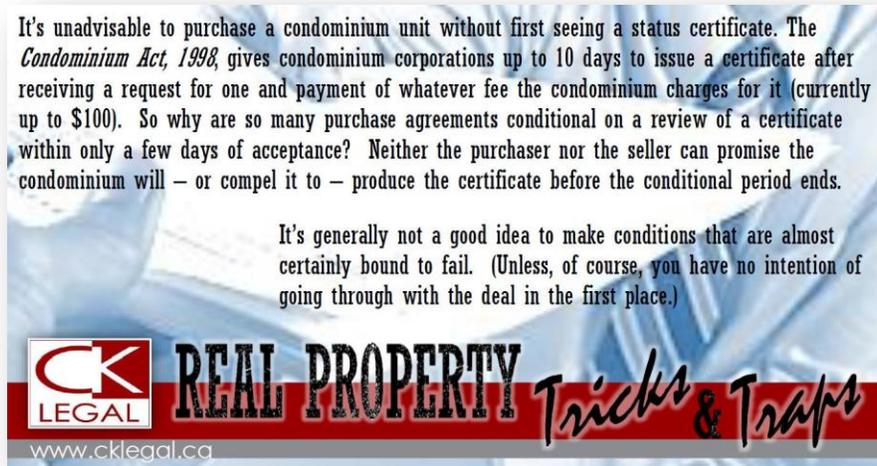


STATUS CERTIFICATES: WHO SHOULD BUY THEM?

We were recently asked to write a blog recently about a subject for which we don't really have an appropriate blog page. (You can check out the blogs we *do* have – along with other social media offerings – on our website, especially at <http://www.cklegal.ca/blogs.html>.) But we always aim to please, so this memo contains our commentary to fill the gap for the inquirer.

The request came in answer to this exchange on Twitter:

- We posted a meme, pictured below, with the accompanying comment: “Making your [#condo](#) deal conditional on a [#StatusCertificate](#)? Good idea. Needing it faster than the condo has to do it? Not so much.”



- One of our followers on Twitter re-tweeted this, adding the comment: “A wise seller will order the status certificate when their unit goes on the market. Then the buyer can read it at the real estate office.”
- To which we, in turn, replied, “True. But there are some rights that only the person who orders the certificate has. It's better for the buyer to order it.”

So why would we say that? Why do we think it is better for the buyer to order the status certificate than the vendor? Well, there are a couple of points to consider.

First is **currency**. A status certificate is only accurate as to the date on which it is issued. A certificate ordered by a vendor at the time of listing will necessarily age, and might even be significantly old by the time an acceptable offer gets made. If the purchaser wants to be certain the information he or she is relying on is current, ordering a new certificate will be needed anyway. (In fact, sometimes purchasers are advised to order **two** certificates – one, at the time they enter into the deal and before it is binding, and another just prior to closing.) So, one thing the purchaser loses by relying on the vendor's pre-purchased certificate is reliability. If a

special assessment or other issue has arisen in the meantime, the purchaser could end up on the hook for costs or other problems he or she never expected.

Second is **certainty**. Although we would like to believe no vendor would ever be deceptive just to try to get a sale, it has been known to happen. Relying on a certificate pre-ordered and provided by the vendor takes away any real basis for certainty that the certificate has not been tampered with.

Third is **guaranteed access to additional information**. Section 76(7) of the Condominium Act, 1998, provides that only the person who orders and pays for the status certificate has a clear entitlement to examine copies of agreements referenced in paragraph 33(c) of the certificate, which can include certain management agreements, service agreements and mutual use agreements that were entered into by the corporation prior to turnover (many shared services/mutual use agreements would be of that vintage, even in an older condominium) as well as other agreements between the condominium and another condominium or the owner of the unit. If the vendor orders and pays for it, then it is only the vendor who has that right, which does not leave the purchaser with any strict assurance that he or she can look directly into the arrangements that bind the condo being bought.

It is also not uncommon for a purchaser's solicitor to contact the condominium's manager by phone, seeking verbal updates to an already issued status certificate (rather than ordering a new one). Managers are not obligated to provide answers either way, but are much more likely to respond to the person who actually ordered a certificate than to simply anyone who calls. In the latter case, they should probably simply tell the caller to order a certificate for themselves, which could be problem if the call comes just before the closing date.

So, by all means, vendors can and should order certificates when listing their units for sale. But the reason for doing so is not to benefit the purchaser. Rather, it is the vendor who might learn a few things from the certificate, and thus be better prepared to answer and address potential purchasers' questions and concerns, and maybe even resolve some before they ever arise. For the purchaser's part, it is always better to order it anew. If cost is an issue, then the answer is to have the agreement provide that the vendor will reimburse the hundred bucks (or whatever is ultimately charged) rather than to have the certificate issued in the vendor's name.

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