

What Is a Status Certificate?

The status certificate is a document, as per Section 76 of the Ontario Condo Act, that provides basic and essential information concerning the financial status of a unit and of the condo corporation. Its main focus is to inform a prospective owner of the fees, of any increase that is going to come into effect, of any special assessment that is being contemplated by the board, and any arrears or lien that a particular suite might have.

In addition, it contains the condo declaration, by-laws, budget, reserve fund, insurance, management contract, rules, minutes of the last annual general meeting, and mention of any lawsuit involving the corporation, this certificate can run into one hundred pages.

The purpose of status certificates is to allow potential buyers of condo units to have as much information as possible about their unit as well as the physical and fiscal situation of a building. Certificates also allow prospective owners to find out what the rules are, including whether pets are allowed.

Status certificates are ultimately boards' responsibility. Many board members are unaware of this responsibility because this certificate is generally prepared by management companies. It is a good idea for board presidents to check the contents of status certificates, at least once a year, and to do so when the fiscal structure of a condo is about to change or has changed.

Status Certificate and Special Assessments

For instance, as soon as a board becomes aware that a steep increase in fees is forthcoming, or a special assessment will be levied, or a large expenditure will substantially lower the reserve fund, this information has to be included in the status certificate.

When a management company fails to include this key information, the board is ultimately responsible for this lapse. (The board may fire the manager but the damage will have been done.)

This is a problem which happens far more frequently than believed.

What can happen if this information does not appear in the status certificate?

Here is an example:

A prospective buyer obtains a status certificate and, one month after purchase, a special assessment for window replacement is announced. The new owner is asked to pay \$3,000, which is the proportion of the special assessment determined for a suite of its size. But there had been nothing about this special assessment in the status certificate: The new owner confirms this with his lawyer and refuses to pay the levy. The manager makes his life difficult and insists that he pay up.

Who is right? The new owner is.

Indeed, it is very unlikely that the board and the manager were not aware, if not of the exact sum, at least that there were serious expenditures forthcoming for large-scale replacements and repairs and that additional funds were to be levied. This should have appeared in the certificate. If it had, the owner might have decided against buying the suite or, yet, might have budgeted accordingly or might have asked for a reduction in the price of the unit.

In other words, failing to announce a special assessment or a steep increase in fees or even an important expenditure against the reserve fund in the status certificate is akin to trying to sell a car with a rolled-back odometer: It constitutes false advertising.

So what happens? Well, the new owner will not pay. Instead, his \$3,000 will be added to the total sum levied and will be paid fractionally by all other owners. Or, if the owner has paid, he can go to Small Claims Court to get the money back.

It is important that all prospective buyers obtain and carefully inspect status certificates. They can't refuse to pay for a special assessment that is clearly announced if they have not read the certificate or have not requested one. The responsibility of reading it is theirs and their lawyer's.

In fact, many offers of purchase contain a clause stating that acceptance of the offer is conditional upon the buyer receiving the status certificate and being satisfied with its contents—although it is generally the buyer's lawyer who examines it, hopefully closely. ([Click here for New Vs. Resale Condos](#))

New owners should always ask their lawyer if he/she sees any problem in the status certificate. In theory, an owner could go against the lawyer if the latter fails to inspect the status certificate carefully and inform the owner accordingly.

Obtaining A Certificate

Who can obtain a status certificate? Anyone can, in theory. However, each unit's certificate may have slightly different contents because a certificate always lists arrears and changes in the exclusive-use common elements made with board approval, for instance. Therefore, in practice, owners who are selling and prospective buyers are the ones who obtain a certificate. Or their lawyers, or real estate agents, or a bank.

One can only presume that, if there is a case of identity theft that is suspected by management, they will refuse to deliver a certificate. Simple curiosity about a suite may not be an acceptable reason to obtain a certificate, but I am not aware of what decision this would entail on the part of management.

Persons who request a status certificate should receive it within 10 days after they have applied and paid for it.

Generally, the fee for the status certificate (\$100 + HST) is paid to the management company if it is so stated in the management contract. However, one president and his board have renegotiated their contract with the management company: The fee will now go to the condo corporation.