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Check condo deed's suite number with plans

124 units were wrongly labelled

Floor plans can save you grief

I've always thought that the most important documents in a condominium purchase transaction are the massive floor plans prepared by the building's surveyor. Among other things, the floor plans show the layout of each floor in the building, and the configuration of the units in relation to each other and the other facilities on the floor, such as the elevators, stairs and hallways.

Each sheet on the plans is big enough to cover my entire desk. They are available from local land registry offices and from Teranet, the folks who operate the province's electronic land registration system.

Even though the plans cost about \$30 by the time they are couriered to my office, I always order one sheet for each floor on which my client will be buying a residence, parking or locker unit.

When I meet with clients to sign purchase documents for new or resale condominium units, the first thing I do is spread out the floor plans and ask them to identify which unit on their floor is the one they are purchasing.

Virtually every time I go through this process, the clients point to the right units on the plans and we proceed to sign the necessary documents.

Earlier this month, I was acting for a young couple on the purchase of a condominium unit in a snazzy new downtown Toronto twin-tower project with about 416 residential units. As usual, I unfolded the floor plans for the 13 floor on which their unit is located, and I pointed out the unit that was listed on their deed. Then I asked them to confirm that it was the one they were buying.

"That's not it," they said. "We're getting the corner unit."

In fact, they had been living in the corner unit since last spring when they took interim occupancy. It bore no relation to the size and location of the unit that was on the deed they were about to get.

"Houston," I thought, "we have a problem. A big problem."

Of course, if my clients' unit had the wrong number on the deed, so did a whole pile of other units.

Nobody wants to have a deed to the unit next door. It becomes very difficult to sell your condominium when the time comes if you don't have a deed to it.

I immediately put in a call and sent an urgent email to Mark Freedman, of Harris Sheaffer LLP, lawyers for the developer. Freedman is one of the co-authors of *Condominiums in Ontario*, a superb text for condominium practitioners, property managers and owners. He acts for a great many of the city's large developers and I've always found him and his firm a pleasure to deal with.

To say that Freedman was agitated when I later spoke to him would be an understatement. He already knew about the problem. In many years of handling tens of thousands of condominium sales, he told me, this kind of error happens very rarely.

Apparently through some fluke in the preparation of the floor plans, all of the units on floors eight through 25 were one number off from the correct unit numbers. By my calculation, the errors affected 124 units. The purchasers of each of those units were about to get a registered deed to the unit next door.

Freedman had discovered this problem the evening before almost all of the 416 units in the project were scheduled to close.

With purchasers and their lawyers sitting on certified funds ready to close the next morning, postponing the closings would not have been possible.

Changing the documentation and advising 124 lawyers to change the unit numbers in all their deeds, mortgages, title insurance policies and relating closing documents was not a practical possibility either. Disaster loomed.

The only real possibility was to change the registered condominium plans to conform to the way the documents had been prepared.

In other words, although my clients were going to get a middle unit on the incorrect drawings, the condominium plans would have to be changed so that the unit number on their deed would be allocated to the corner unit.

Normally, registration of a condominium declaration and floor plans takes months and is a complicated process involving more than 1,000 different steps. With little more than 15 overnight hours to get the whole mess corrected, Freedman pulled out all the stops.

He quickly assembled a team of about a dozen people who moved heaven and earth to get everything changed so that the 124 closings would not go south.

Doug Aron (no relation), Ken Wilkinson and Chris Jubb at the Toronto Land Titles Office, and Karyn McAlpine and Gary Wright of the city of Toronto planning department co-operated to work miracles on the necessary documents, and by 1 p.m. on the day of closing, the magic changes to the condominium plans had been registered.

Although the handwritten amendments to the condominium floor plans were posted on the builder's lawyer's website, my guess is very few people saw them or were aware of the near-disaster and the "Miracle on Dundas Street" (the Land registry office is in the Atrium building at Dundas and Yonge Sts.)

When it was all over and the deals had closed, I asked Freedman how many of the purchasers or their lawyers had cross-checked the floor plans to the 124 deeds with the wrong unit numbers.

"Three," he told me. "I got one call from you, and two from law clerks at other offices."

We were both amazed that only three of 124 purchasers had bothered to check the floor plans.

The moral of the story: Never purchase a condominium unit new or used without cross-checking the unit numbers on the deeds with the floor plans. A few dollars invested in the

floor plans are cheap protection to avoid a disaster.

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