

Shadow flipping: Assignments with another name

Understanding the term – and understanding when it's to your advantage

By Frank O'Brien

There has been a lot in the media recently about "shadow flipping," as if the selling of assignments was something new to the Vancouver real estate industry.

In fact, such sales were common in Vancouver's condominium market two decades ago and still surface today, although savvy developers have made them less profitable and popular.

Assignments of yore

Assignments first appeared in the new condominium market and worked like this....

A buyer would purchase a new condominium under a pre-sale agreement one or even two years before the building was to be completed. Then, as the development progressed, the buyer would sell his or her assignment of the sales contract, often for much more than the original price.

The assignment flipping craze came to a screeching halt with the downturn of Metro Vancouver's housing market in 2008. For the first time, condo investors caught with assignments were exposed to significant liability.

Unless the assignment agreement expressly states the assignor (the original investor) is free from future liability – and the vendor agrees to it – the assignor remains exposed. If the assignee does not complete the purchase, the assignor can be sued for the damages suffered by the



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vendor. In a declining market, these damages can be significant, including the loss of any deposits.

To protect themselves, condominium developers began to add terms to their pre-sales contracts. Common conditions include:

- Prohibiting assignments until the developer meets certain sales thresholds.
- Requiring the developer's approval to assign (and this approval may be refused for any reason at all).
- Charging a fee to assign.

Metro Vancouver developers also became very good at analyzing and projecting the market, and setting prices that did not leave much room

for an assignment flipper to make a big profit.

Assignments today

Assignments work differently in today's market, as they mostly involve the buying and flipping of sales contracts on existing homes. But the lessons learned a decade ago still remain: assignments only work for buyers in a rapidly ascending market.

As an investor, assignments can be profitable but they also expose you to great risk if the market falters, even temporarily.

As a vendor, it is easy to end the practice by simply requesting a no assignment clause in your sales contract. Such a clause could reduce the number of buyers but, in today's white-hot housing market, that may not be much of a problem.



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