

Business / Real Estate**Condo developer hit with \$29 million class-action suit**

Condo owner cites developer for water-valve problems that have been blamed for scaldings



NICK KOZAK

Condo owner Etienne de Muelenaere got so tired of waiting for the developer of his Charles St. building, Great Gulf, to fix problems with pressure valves, he spent \$4,000 to have the work done himself and has now launched a \$29 million class-action suit against Great Gulf. Nick Kozak/Special to The Star

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First there were the multi-million lawsuits over falling glass and faulty balconies, then came the class-action suit against a North York condo developer for allegedly failing to deliver a promised subway connection.

Now a frustrated Toronto condo owner has launched a \$29 million class-action suit over a relatively small, but potentially dangerous, issue — wildly fluctuating water temperatures in a Charles St. highrise project that are being blamed on the installation of improper water valves.

In a lawsuit filed late last week, Etienne de Muelenaere alleges that Great Gulf, the developer of his 44-storey X Condominium building, is “negligent” and in breach of contract because the wrong water valves were installed in some 417 units.

After Great Gulf failed to act quickly to fix the problem — the lawsuit says some residents have been scalded — he spent \$4,000 to have tiles in his two bathrooms cracked and the valves replaced.

Great Gulf not only refused to compensate him, says de Muelenaere, but he couldn't find replacement tiles four years after the building was finished and was forced to use more affordable plastic liners which, he believes, have devalued his unit.

“It’s been really frustrating. You try to be patient. But I’m tired of getting emails back from Great Gulf saying we’re working on a solution and there’s never a time line,” said de Muelenaere, 26.

A class-action suit may seem like a drastic move over a little plumbing problem, but it’s unlikely to be the last as Toronto’s condo boom continues to play out across the skyline.

The law firm driving this latest legal salvo against condo developers, Charney Lawyers and Sutts, Strosberg LLP, has also heard from condo owners who have just moved into brand new condos, bought from blueprints two or three years ago, to find promised nine-foot ceilings are only eight.

“The more new buildings that go up, the more we’re finding there are some issues common to the whole building,” says lawyer Ted Charney, who is handling de Muelenaere’s suit.

“Part of what we’re trying to do is hold developers accountable.”

Not long after he moved into his 5th floor condo in January, 2012 and took a shower, de Muelenaere realized there was a problem which he suspects has been an issue since the building was completed in late 2010. Every time someone in a nearby unit flushed a toilet or started up their dish or clothes washer, the water in his shower suddenly got hot or cold.

There were numerous complaints which the condo board, Great Gulf and even officials of Ontario’s new home warranty program, Tarion, investigated. So did de Muelenaere.

“I work in construction, so I did a bit of research,” he says, suspecting that non pressure-balanced valves were used instead of pressure-balanced valves which keep temperatures constant, despite fluctuations in the hot or cold water supply lines.

Great Gulf became aware of the valve problem in 2012 but says it took until 2013 to discover the reason. No one has been scalded, it stresses.

Great Gulf has “been working on a solution for several months,” and has tested a prototype device in a few units which would stop the temperature fluctuations without having to crack out the tiles in all 417 units, many of which have two bathrooms, says Great Gulf spokesperson Madeline Zito.

“We advised the condo board and the residents who complained that we were working on a solution. But we have to be careful to come up with a solution that works and where we’re not being intrusive to a homeowner and creating problems for them,” Zito added.

Great Gulf is about to start implementing the fix, which is expected to cost less than \$1 million, she said.

Charney said he became aware of the X Condominium water problem through an anonymous phone call, pointing him to a number of frustrated residents, including de Muelenaere.

So far Charney has launched a number of condo class-action suits against developers and sub-contractors, four of which have been certified to move ahead by Ontario’s Superior Court.

Three related to glass panes which fell from buildings and a fourth relates to faulty balcony railings that left the outdoor space off limits to many residents for months.

Since then, Charney has also initiated a \$30 million class-action suit against Elad Canada Inc., claiming that it failed to deliver on marketing promises of “easy underground access” to the Sheppard subway line and nearby Fairview Mall from its Emerald City Condominiums project at Don Mills Rd. and Sheppard Ave. E.

Instead, residents were surprised to find on move in that there was no tunnel.