

Condo Smarts March 15-19th, 2017 Before Alterations Go Off the Rails

Dear Tony: We live in a 26 unit townhouse complex in the tri cities. Unlike conventional side by side townhouses, we have one of top of the other. 13 enter their units from the lower road to a garage, and 13 enter through the upper road into a garage. One owner on the lower level has requested permission for a makeover of their unit that would include the removal of the interior walls creating a large open concept area. They claim it would have no impact on any other strata lot. The neighbors on both sides and above have opposed the request citing the changes in the structure could significantly impact their units. The owner has threatened court action if we don't grant her permission as our bylaws say we cannot unreasonably withhold our approval. What does the term unreasonable mean? There is nothing in our bylaws or the Act that provides a definition and council is concerned that whatever decision we make we will be exposed to a possible court action from the neighbors or the owner requesting the alterations. JR

Dear JR: The Schedule of Standard Bylaws of the Strata Property Act require an owner to obtain the written approval of the strata before the alter a strata lot that involves any of the following: the structure of the building, the exterior of the building, chimneys, stairs, balconies or other things attached to the exterior of the building, doors, windows or skylights on the exterior of the building or front onto common property, fences, railings or similar structures that enclose a patio, balcony or yard, common property located within the boundaries of a strata lot and most important those parts of a strata lot which the strata must insure under section 149 of the Act. The parts of the strata lot the strata must insure includes all of the original fixtures installed by the owner developer such as the original flooring, kitchen and bathroom cabinetry and plumbing fixtures. What often seems like a simple alteration can easily turn into a nightmare if the strata do not enforce their bylaws and impose reasonable conditions on alterations. The bylaw says, "as a condition of its approval". Before granting approval, the strata may require independent engineering reports on the proposed alterations, a detailed report of the proposed construction and any alterations, and any other conditions such as environmental abatement in the event any asbestos is discovered. The strata corporation may also require the owner pay for any of the costs associated with the request, including any professional consulting costs or the cost of any legal agreements, building permits, or costs associated with the construction, demolition and disposal, as a condition of granting permission. A good question to test whether the alteration is unreasonable it whether it will have a negative impact on other strata lots or an alteration that may significantly change the use or appearance of common property or a common asset, which may require a special general meeting and a 3 / 4 vote of the owners for approval. Part of the Spring CHOA seminars addresses alterations and hearings. For more information go to ww.choa.bc.ca to register or search "alteration agreement" guide 200-001.

Sincerely,

Tony Gioventu, Executive Director
Condominium Home Owners' Association (CHOA)
website: www.choa.bc.ca