

## Condo Smarts September 5, 2018

### Who manages alterations to common property?

Dear Tony: We would like to share a recent decision made by our council which seemed appropriate at the time. Given the bylaws, the type of request to alter common property and the advice of our manager to require the owner to sign an alteration indemnity we assumed it couldn't be more iron clad. We were very wrong. An owner requested permission to install a skylight in their penthouse unit. They agreed to the conditions we set out and to assume any costs relating to the alteration. Our basic conditions were a requirement to use a credible contractor and contact our roofing company to ensure there were no warranty issues. That was back in April. We have since had rain on a few occasions and discovered the installation was not done correctly. The contractor was an unlicensed renovator from the back of his van and we are plagued with leaks and damage to the building. In future our council has decided no more alterations to the exterior of the building. Even if we are successful in recovering the costs, the stress and disruption this has caused to all of the owners and council is not worth it. We definitely support the position that common property is owned by everyone, everyone shares in the responsibility and no one should be entitled to alter the area for their own benefit at the risk of the owners. Frederick W. Kelowna

Dear Frederick: Owners should not be permitted to alter common property without the close scrutiny and supervision of the strata council. If an owner wishes to make an alteration to the common property or a common asset, the first discussion/request to council needs to include not only a detail of the scope of the alteration but a clear understanding of who is going to perform the alteration. The natural tendency of owners is to take short cuts and reduce costs wherever possible. I am yet to find an owner who chooses the best contractor over the cheapest.

Over the years I have spoken to many strata councils facing obstinate owners who believe they have the right to convert a window to a door, install a skylight, enclose a balcony or remove structural walls within their units. When owners do their own alterations, it ultimately results in a failure to meet building codes, numerous WorkSafe violations, reduced or comprised standards of construction, hidden errors or modifications, and a lack of accurate reporting to the strata corporation of what was done.

Owners may still request alterations to common property; however, the best solution and protection for the strata corporation and your owners is to insist the consultant and contractor must be selected or previously approved by the strata corporation before any construction begins. Because there are building code and safety implications to many alterations, a qualified consultant may be necessary. There are several strata corporations who have adopted stringent alteration bylaws that permit alterations to common property; however, they require the strata corporation to manage the scope of work, negotiate the construction documents and legal agreements, obtain permits, select contractors, determine if the alteration is significant and requires a 3/4 vote of the owners at a general meeting, and require the owner provide full payment in advance of construction. This is the only really fail-safe method of ensuring the work is done to a reasonable standard and everyone is protected. Real estate flippers are the most common offenders of unauthorized work and our most common complaint. Their focus is profit and reselling the condo as soon as possible often with a total disregard for the strata corporation bylaws or their fellow owners.

Under the Standard Bylaws and most bylaws adopted by strata corporations, a strata council does not have to grant permission to alter common property. Before you approve an alteration to common property, do you know who is going to pay the bills if something goes wrong?

Sincerely,

Tony Gioventu, Executive Director  
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