

Condo Smarts April 25 – May 1, 2021

How Do We Know if Pipes are Common Property?

Dear Tony: Our strata is a typical older 3 floor walk up in North Vancouver. There is no elevator, and we have a common laundry on the ground floor. In many ways it is a simple apartment style building with few problems. We are at the point where we need to update our hot and cold water lines in the building and there is a significant amount of debate over who is responsible and how the cost will be paid. Our strata council president has referred to a recent Civil Resolution Tribunal decision that indicated the pipes and wires were not shown on the strata plan. The implications being each owner was somehow responsible for the piping to their unit. If this is the case, how would anyone ever know what building elements were the responsibility of each owner? No one has any idea what's behind our 45-year-old walls. Gwen R.

Dear Gwen: There is no requirement for pipes, wires, ducts and cables to be shown on a strata plan, because the *Strata Property Act* creates automatic easements and definitions to define common property. There are several divisions of the *Act* as well as the bylaws of a strata corporation and the registered strata plan that will identify property designations. On a registered strata plan, the boundaries of a strata lot, and any areas that are designated as limited common property are shown. All other areas not identified or designated are by default common property. Section 1 of the *Act* sets out a definition for common property which includes: (a) that part of the land and buildings shown on a strata plan that is not part of a strata lot, and (b) pipes, wires, cables, chutes, ducts and other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they are located (i) within a floor, wall or ceiling that forms a boundary (A) between a strata lot and another strata lot, (B) between a strata lot and the common property, or (C) between a strata lot or common property and another parcel of land, or (ii) wholly or partially within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property. In addition to these definitions, there are implied easements established in the *Act* that exist in favour of each strata lot and owner in the strata plan to allow for the provision of all the building services. These easements exist without registration on the strata plan, create the rights of existence and passage and rights and obligations to inspect, maintain, repair and replace the facilities. In a nutshell, for strata buildings and townhouses, the piping that is in adjoining or exterior walls, floors and ceilings is common property and the responsibility of the corporation as a common expense.

The most efficient method of replacing piping, is a singular contract as a common expense. The strata corporation is in control of the contract, will confirm all of the plumbing systems are replaced by a qualified and insured contractor, and negotiate the best terms and cost per unit. The upgrade of hot and cold domestic water systems is a significant benefit for strata corporations. In addition to better service and performance, the upgrade reduces the risk of water escape and exposure to insurance claims. Remember as a common expense, the schedule of unit entitlement is applied to special levies and strata fees.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>