

Condo Smarts May 9 – May 16, 2021 Alteration Conditions

Dear Tony: What are the limitations that we can impose on an owner who is wanting to undertake alterations to their strata lot? We have an owner who has purchased a penthouse unit and has submitted a request to renovate the space, including the removal of several walls, the installation of 2 new windows and a number of changes to the electrical and plumbing. We have the Standard Bylaw of the Act that applies and have requested before alteration a stamped set of engineering documents, building permits and details of all the renovations. The owner was very aggressive with us and told us we were not being reasonable and has started the renovations without meeting any of the conditions, resulting in a water leak from a severed line. Luckily it was stopped before there was any significant damage, but the owner below now has a stained ceiling. Is the Standard Bylaw sufficient for us to impose these conditions? David C.

Dear David: The Standard Bylaw does have limitations in the definition. While it describes the types of alterations clearly in a broad scope, the conditions it imposes are a) the strata must not unreasonably withhold its approval and b) may require as a condition of its approval that the owner agree in writing, to take responsibility for any expenses relating to the alteration. A bylaw that stipulates clearer obligations and the relationship between approval and conditions is for the benefit of all owners, especially the owner making the application for the alteration. Bylaws regulate the use and enjoyment of all property including strata lots. Strata corporations may adopt bylaws that impose higher standards. With the higher costs and risks of insurance capacity and renewal there is no better time to consider a bylaw with much higher standards. Like all Standard Bylaws, the alteration approval bylaw may be altered by the strata corporation by 3/4 vote resolution at a properly convened general meeting. When an owner alters their strata lot there are often unintended consequences to their neighbours, in turn which everyone pays the price for years to come. There is nothing simple or “reasonable” about removing walls causing structural changes, altering plumbing systems causing floods and back ups, changing finishing materials and insulation increasing noise transmission, introducing more windows and doors, changing the building envelope performance or ventilations systems, or altering terrain resulting in environmental damages. A detailed alteration bylaw will address the application process, the conditions and limitations of alterations, the liability of an alteration, the costs associated with the process, and the provisions to permit council to approve the alterations. The application process should contemplate the types of alterations that require approval, what documentation will be required, any requirements for professional consultants, the requirement for building permits, additional insurance, the assurance of only licensed and insured trades on site, and most important the requirement for a detailed proposal of the alterations. The conditions and limitations the strata corporation may impose must also be part of the bylaw. The strata council is only extended the authority of enforcement of bylaws, not the creation of requirements not contained within the bylaw. Conditions may include the application process being completed before the strata council grants approval, as well as the requirement for the applicant to assume all financial costs, including any costs of the corporation such as legal assistance, insurance, independent engineering or consultants, the cost of administrative time for management, and the creation of an indemnity contract to protect the strata corporation and the owners. There are many examples of alterations gone bad where the neighbours have paid a loss of use, enjoyment, and value in every type of strata corporation from duplexes to bare land developments and 200-unit high-rises. When we live in a strata corporation, our home is not our castle.

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/>