

Condo Smarts July 30 – August 7, 2021

Selling Common Property

Dear Tony: Our strata council president recently posted a notice in our building indicating there are 10 additional parking spaces available for sale at a rate of \$15,000 from the strata corporation. Our building is 5 years old and many of us purchased a parking space from the developer. All the parking is shown as common property, so how do we purchase a parking space that is part of our strata lot and secure for our future use? Daniella J.

Dear Daniella: When parking is shown as common property on strata plan, an owner/buyer does not purchase a parking space. In most transactions this is a license of some sort that entitles the strata lot owner to the exclusive use of those identified parking spaces for a prescribed period, usually 99 years. Parking spaces may also be designated as limited common property by the owner developer which provides a better definition of security in the process of a future sale of your strata lot. Strata corporations are essentially in the same position as the owner developer. They do not sell the common property parking space; they may be granting some sort of license in exchange for the long-term allocation of the parking space to the designated strata lot. These types of transactions are not within the scope of authority of the strata council. The strata corporation must approve these transactions by 3/4 vote resolution at a general meeting and may also authorize a significant change in use of property. While this may be an opportunity for the strata corporation to raise additional funds, legal advice is essential to ensure both the strata corporation and the potential buyers clearly understand the implications of the agreement and allocation of the parking space assignment. Additional parking spaces may be a substantial value-added asset to a strata lot. The allocation and use are subject to bylaws and rules of the corporation as well as any agreement or licenses that may have been created by the owner developer. Developers will frequently issue notices to owners of remaining parking that is available for assignment or purchase rights. Before you purchase, talk to your lawyer to clearly understand if the agreements are valid, how the spaces are regulated, if there are any limitations or restrictions on conversions to charging stations, how the space assignments are transacted to new owners, how the property is designated, whether there is any reliable documentation to verify the assignments, and if it is possible to have the parking spaces designated as limited common property. Parking designated by owner developer as limited common property may only be amended by the strata corporation by unanimous vote. In new developments an owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate parking stalls as limited common property for the exclusive use of owners of strata lots in the strata plan. The owner developer may amend the strata plan to designate a maximum of 2 extra parking stalls as limited common property for the exclusive use of the owners of each strata lot in the strata plan. This is the ideal option for strata lot owners as it secures their purchase/transaction to Land Title documents.

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/>