

Condo Smarts April 13, 2022

What is a significant change?

Dear Tony: Our strata council is struggling with a challenge from an owner relating to an alteration request on common property. The owner lives on the second floor and is requesting permission to have a tree pruned that over the years has blocked their view and sunlight on their deck. The maple tree in question has become a significant part of our landscape and curb appeal. Neighbouring owners are objecting to any alterations to the tree. It is 10 metres from our building and poses no threat to the building or drainage systems. The owner is claiming the tree has diminished their property value and use and enjoyment of their strata lot. If we do permit the tree to be altered is this considered a significant change in use or appearance of common property? Is this a decision the council can make or does this require a vote of the owners at a general meeting? Katrina W.

Dear Katrina: The *Strata Property Act* sets out a provision that requires owners approve a significant change in use or appearance of common property (includes limited common property). This requires a $\frac{3}{4}$ vote at a general meeting. The best method of assessing whether this is a significant alteration is to apply a test. Will the alteration affect or potentially affect: the appearance of the common property, alter the use and enjoyment of the common property or a common asset, or affect the use of any other strata lots, owners, tenants or occupants. Changes that may impact the appearance or use could include, security, noise, privacy, climate, air quality, and of course property values. If in doubt, always exercise caution and consider the request as a resolution at your next general meeting. There are other factors to consider when a request for a common property alteration is submitted. Will the alteration result in the disposition of an asset worth more than \$1,000? This also requires a $\frac{3}{4}$ vote for approval at a general meeting unless the bylaws of the strata corporation have been altered. Before you consider any alterations, read your bylaws closely, the *Schedule of Standard Bylaws* that pertains to alterations of common property does not require the strata corporation to grant consent to changes of common property. Changes to strata lots or limited common property enable a strata council to apply conditions as a subject to approval that relate to obligations of maintenance and repairs and any costs associated with the alterations. Changes to common property only permit a strata corporation to require the owner to pay for any costs relating to an alteration. Remember a strata corporation is not permitted to make an owner responsible for maintenance and repair of common property. Effective tree maintenance will prolong the health of your landscaping, support local wildlife and reduce negative impacts on buildings. In light of last year's heat dome, it's important to remember trees also provide significant shading and cooling to our many buildings without air conditioning. Consider the short and long-term impacts of your decision.

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

We bring together industry experts to discuss the many issues affecting BC's strata community. Click here for a link to our archived webinars: <https://choa.bc.ca/resources/webinars/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.