Condominium Home Owners Association of British Columbia
Leadership, Education and Resources for Strata Owners Across BC
Website: www.choa.bc.ca / Toll-free: 1.877.353.2462
Bulletin: 300-1108

Condo Smarts

Headline: Difference Between Common and Limited Common Property
Topic: Air Conditioning Units
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Written by: Tony Gioventu

Dear Tony: Our strata corporation is struggling over the issue of heat pumps for suites, especially those facing south. We understand the lack of cooling is making the units unbearable during heat cycles, and we want to give relief to owners, but there is a concern the strata corporation is going to be left with installations that result in damages to our buildings with no chance of having the users pay the cost. Our decks, balconies and patios are all limited common property, and owners argue the strata corporation cannot prohibit alterations on common property. What's the difference and how do we resolve this?

Jeremy C. Richmond

Dear Jeremy: There are 3 types of designated property on strata plans. The strata lot, common property and limited common property (LCP). Under the definitions of the *Strata Property Act*, limited common property is common property that is designated for exclusive use.

Strata corporations under the current legislation are not permitted to make an owner responsible for the maintenance and repair of common property; however, they may by alteration agreement make the owner responsible for costs relating to the maintenance and repair of common property. The limitation of this provision is it applies only to the alteration involving the installation of the heat pump. When the owner who installed the heat pump sells their strata lot, the obligation does not automatically transfer to the subsequent purchaser. Part of the solution is to ensure all the areas affected are designated as limited common property, and the bylaws have been properly amended to reflect the obligations.

Where an area such as yours is designated as limited common property, the standard bylaws only require custodial maintenance, items that occur frequently such as cleaning, keeping drains cleared. If a strata corporation is intending on having owners maintain and repair the LCP areas, the bylaws need to be amended to identify what the owner obligations are and alternately amended to define the strata corporation obligations. The obligations of maintenance and repair of the area, and the permitted component sitting on the same area must be clearly itemized. Without the amendments, there is often much confusion resulting in neglected or misdirected obligations.

What happens if the designated areas are common property? To ensure the strata corporation is protected and the obligations are clear, strata corporations by 3/4 vote are permitted at a general meeting to amend common property to limited common property allowing for a broader scope of obligations for maintenance and repairs in the bylaws. The amendments must be filed in the Land Title Registry and may require a survey.

The effective installation of heat pumps requires a detailed scope of work, permits, and a clear road map of the future defining who is responsible for what alterations and components.

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