
Condo Smarts

Headline: Transfer of alteration agreements

Topic: Alterations, Windows

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Written by: Tony Gioventu

Dear Tony: We purchased a townhouse in Ladner last year and love the community and our new home. Our strata corporation is undertaking several upgrades which includes resealing and caulking of doors and windows on the exterior and some window upgrades. As part of this upgrade the strata council issued notice to several units advising they are responsible for the bay window areas as part of authorized upgrades and the obligation automatically transferred from owner to owner. The bylaws require owners to maintain and repair upgrades to their strata lots, but nothing else. When we purchased from the previous owner, who had lived there for 5 years until her husband passed, there was no indication of an alteration from the owner, or anything disclosed from the strata corporation. The strata council indicated these were upgrades the owner developer had installed during the first year when the owners purchased back in 2004. About half of the owners have this upgrade. Council advised this alteration converted the windows to part of the strata lot. We contacted the previous owner and spoke to several current owners with this alteration. Everyone is unaware of this requirement.

JJ Rowlson

Dear JJ: Alteration agreements do not automatically transfer, and they are not blanketed by a general bylaw that imposes such a condition. If the doors and windows are part of the exterior of your buildings they are common property, and they remain common property. A strata corporation is not permitted to make an owner responsible for the maintenance and repair of common property.

If an owner wishes to alter common property, they require the written permission of the strata corporation before they proceed. This includes all designations of common property, such as pipes, wires, ducts, cables

and the structures of buildings, including those that border between strata lots or a strata lot and common property. A strata corporation may require the owner be responsible for any costs related to the alteration - this would form part of an alteration agreement and that agreement is a record that must be retained by the strata corporation.

When a strata lot sells, there is generally a request for a Form B Information Certificate. The alteration agreement must be attached to the Form B. The alteration agreement should also include a condition that requires the disclosure of the agreement and assumption or transfer to the next owner. The seller is then obliged to disclose the agreement to buyers, as well as the Form B attachment. Care should also be exercised when purchasing and renewing insurance as fixtures, which include doors and windows installed by the owner developer are part of the insurable assets of the strata corporation, and not betterments. Before your strata corporation proceeds with their actions, a legal review of the installation of the bay windows, the bylaws and transactions and disclosure will be necessary.