

Condo Smarts

Headline: Playground Safety in a Strata Complex
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Dear Condo Smarts: I awoke this morning to the sound of digging and loaders in the middle of our complex. Our strata council has decided to install a playground in our central lawn area. Unfortunately they failed to notify the owners of the complex, seek our approval, or investigate what was being installed or any of our risks associated with the playground. As you can imagine, our strata has now become a battle ground. Council spent \$2,500 on equipment and another \$2,000 on the landscape company to do the installation. The council members, by an ironic twist, are the only resident owners who have children in the complex. The unhappy owners have signed a petition demanding a special meeting to vote on the playground. The council received the petition, but they instructed the landscaper to finish with the construction immediately. So what happens if the owners decide against the playground? Do we have it removed and who pays the bills? Considering council is responsible to enforce the bylaws, who enforces the laws against council when they act without authority? Jane Nelson, Richmond

Dear Jane: Your letter was perfect timing. After a long warm summer, we have seen a significant increase in a number of related complaints around unauthorized alterations by both strata councils and owners. With respects to the Strata Property Act, there are specific limitations to the extent of the alteration, use of property, and limits on capital expenses. The first and most contentious issue is whether an alteration is a significant change in the use or appearance of common property. This can be a difficult decision for council to make. They are being pressured by an owner(s) to permit a specific alteration, or perhaps a fellow council member, but at the same time the alteration may have an impact on: property use by other owners/residents; the appearance or design of the property; property values, access, safety; and future costs of insurance or maintenance. If council is in doubt, it may be better in the long term for the strata to obtain the owners' approval by 3/4 vote, rather than alienating a group of owners or causing a battle that will affect your community for years to come, or even more costly, end up in a court dispute. The second issue is whether your strata council has the

authority to spend the funds. Unless your bylaws are otherwise amended, council can only authorize the expense for the acquisition of personal strata property for any amount up to \$1,000.00. In Jane's strata, their bylaws do not permit any greater amount, and the annual budget had no provisions for landscaping costs or other landscaping components. Ultimately, the playground could be voted down by the owners, and the strata could be left with the costs. Council members who willingly act contrary to the Act or their owners' wishes are likely to find themselves facing a costly claim.

The installation of a playground on strata property may likely be a significant change in both the use and appearance of common property. While the playground has the potential to be a significant asset to the strata corporation, there are also a number of other factors to consider. Playground injuries are fairly common, so the strata should ensure they meet the highest possible standards with respects to CSA approved equipment, designs for use in all seasons, fall protection requirements, impact absorbent ground cover, age appropriate equipment, safe climbing heights, personal safety, the maintenance and servicing of the equipment, and whether there are any special insurance requirements. In addition to the installation of a playground, some thought should be given to the intended use. Who will have access to the playground? Will it be the residents and their guests, or will the playground be open and accessible to any neighbouring properties? Are there owners who work on shift work or schedules that require limited hours of use be posted to the playground area? Will there be adult supervision of the playground area, especially if the area is unsecured? Before you proceed, talk to someone who has the experience of design and installation. Play equipment distributors, landscape architects, and landscape contractors all have resources that can help your strata make the right decisions.

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