

Condo Smarts

Headline: What defines our building type?
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Written by: Tony Gioventu

Dear Condo Smarts: Our strata corporation is very confused over what type of strata corporation we are. When we bought in 2001, we were told by the agent and developer that we were a bare land strata corporation. We were led to understand that as a bare land strata each owner was responsible for their own detached home, including insurance, maintenance and repairs. One of our owners sold their unit 2 weeks ago, and the lawyer for the purchasers requested a copy of our insurance policy for our buildings. We advised that as a bare land the strata did not insure the buildings. The lawyer advised we were not a bare land. How is this possible? We are detached houses, separate roadways, and the homes were marketed by the developer as bare land strata land, and re-sales have been sold by agents as a bare land strata . Please help us sort out the confusion. Bill Kelly, Saanich

Dear Bill: The type of strata plan and boundaries of the strata lots, designations of limited common property and common property are created when the strata plan is registered in the Land Title Registry. The strata plan registration creates the strata corporation, the definitions of property and boundaries, and permits the creation of the titles for each of the strata lots that are eventually conveyed. In addition to the property boundaries, and except for a few older plans, a bare land strata will be defined on the plan as a "Bare Land Strata". There are many strata corporations that have the appearance of a typical sub division, or bare land strata, but are actually detached homes on specifically defined strata lot boundaries of the outside walls, attics, crawl spaces and basements. In many of these plans, such as Bill's strata, they are similar to a town house design. The common property,

common assets and common fixtures within the building structures, for the purpose of insurance, all fall within the responsibility of the strata corporation. The strata corporation is also responsible for the maintenance and repair of common property, and other provisions set out in the bylaws of the corporation. As a result, if we review the boundaries of the strata lots in Bill's strata, we soon discover that the building exteriors, including roofing, doors, windows, siding, decks and balconies are all defined as common property. The common property is the responsibility of the strata corporation to maintain, repair and insure, and the *Strata Property Act and Regulations* do not permit a bylaw that makes owners responsible for maintenance and repair of common property. It is also critical for the strata to place the correct insurance, and in order to establish the full replacement value, the strata corporation will require an insurance appraisal, including the buildings shown on the strata plan, which are the detached homes. The strata corporation is also facing another issue regarding the assessment of strata fees. They have been operating as a bare land strata and each unit has been paying the same equal amount; however, the filed schedule of unit entitlement is not equal, and varies depending on the size of each strata lot. When a strata corporation discovers that they have not been charging strata fees based on the correct unit entitlement, or operating as a proper strata corporation, they should seek legal advice on remedying the errors and the transformation to compliant operations. Improper insurance, neglected maintenance or improper allocation of common expenses will certainly end up in a costly dispute.

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