

## Condo Smarts April 27<sup>th</sup> – 30<sup>th</sup>, 2016

### Alteration Agreements Not Disclosed

Dear Tony: What happens when an owner buys a unit, and there is an alteration agreement relating to the balcony enclosure but the strata corporation did not disclose the alteration agreement? We purchased our unit in False Creek two years ago and requested 5 years of minutes and the Form B info Certificate. In March the strata started inspecting the enclosures and we have received a notice that we are going to have to pay the \$3,500 to do the caulking and repairs to our enclosure. On the Form B the strata did not include or identify any type of alteration agreement and the previous owner indicated the alteration was done before her time. We double checked the minutes and there is nothing indicating any agreements, and the bylaws only refer to an owner's responsibility if there was an alteration agreement. So what happens in this case? We have been given 30 days to pay the amount or the strata will file a lien against our unit for the cost? Do we have any recourse? Geoff

Dear Geoff: As a condition of granting permission for an alteration, the *Standard Bylaws of the Strata Property Act* permit a strata to require an owner to be responsible for any costs relating to an alteration to common property or a common asset. Owners are automatically required to be responsible for the maintenance and repair of their strata lots or alterations. We first have to identify the type of property that was altered. In your case the exterior of the building is shown as common property, and your bylaws require the strata to maintain and repair the exterior of the building. The Act does not permit a strata to make owners responsible for the maintenance and repair of common property, only costs relating to alterations. In exchange for granting permission to install the balcony enclosure, the strata could have required an alteration agreement, and made the owner responsible for any costs relating to the installation costs, maintenance and repair of the alteration. The agreement would have continued on to the next owner had the strata corporation disclosed the agreement. It is the duty of the strata corporation to disclose any such alteration agreements and the agreement must be attached to a Form B when requested. As a result of failing to disclose the agreement and completing the form properly, the strata corporation have likely lost their ability to recover the costs against your strata lot. This raises a greater problem with the strata record keeping and whether the strata has been applying this condition to everyone else equally, as there are 21 of the 42 balconies with enclosures. Unfair application of bylaws is also a potential problem. Strata corporations are not permitted to file a lien for costs relating to alteration agreements, user fees, damages, insurance deductibles, fines, or the costs of remedying a bylaw. Liens may only be applied for strata fees, special levies, work orders, cost of filing and removing liens, reasonable administrative costs and interest if permitted in the bylaws of the strata or in a resolution for a special levy.

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