

## Condo Smarts August 29<sup>th</sup> 2018 Sections, Types, Air Space Parcels

Dear Tony: Could you please explain the difference between sections, types, and air space parcels to our strata corporation of 171 units? Our property manager is insistent that if the residential and commercial agree, we don't need to have a joint section council or meetings. We understood there was no choice. We have commercial offices, residential units and a restaurant. Since we started operating a few years ago, this has been a constant source of confusion over how bills are allocated, how decisions are made and who has voting rights at different meetings. Karen D. Vancouver

Dear Karen: There is no such entity as a joint section. A strata corporation is created when the strata plan is registered in the Land Title Registry. It shows the boundaries of strata lots, common property, limited common property, residential and non-residential strata lots. The strata corporation must operate in full compliance with the Strata Property Act, Regulations and any bylaws as amended by the owner developer or the strata corporation. In some circumstances there may be minimal operating obligations for the strata corporation, but any common expenses such as insurance or any operating or utility costs not exclusive to a section, are approved in the annual budget of the strata corporation and the strata corporation must elect a strata council at their annual general meeting (AGM).

Think of your strata corporation as the Province of BC. Sections are created through the bylaws and they are like the municipalities within the province. Those common exclusive expenses, bylaws and matters that affect only the strata lots identified in the section bylaws are approved by the section, in your case the residential strata lots, and administered by the executive council elected at the AGM of the residential section. The same applies to the commercial section(s). In basic terms a section can do anything a strata corporation can do, but within the entity of the corporation; however, they are all separate legal entities. What this really means is you have 3 separate management contracts, 3 budgets, 3 councils, possibly 3 sets of bylaws or other matters that would be exclusive to one of your sections.

One of the common misconceptions applied to sections, is that costs may be allocated between sections based on the formulas filed in the bylaws. If the expense is not a sole expense of a section, then it is an expense of the strata corporation and shared by everyone. The amount or ratio of cost is irrelevant and bylaws cannot reallocate common expenses.

Types can be administered within the strata corporation or a section and they apply only to operating costs. For example, if only 25 units had access to natural gas for heating and fireplaces, the strata corporation may adopt a bylaw that creates the classification of types and only those 25 strata lots would pay for the gas based on their relative unit entitlement. Types are a simple method of allocating an operating cost only to those entitled users without the need for a higher level of administration.

I have reviewed your registered strata plan and documents and have discovered an error in how your strata corporation and sections are being administered. The restaurant is not part of your strata corporation. If you look closely at your registered strata plan you will see it is a separate property, partly under your building, where an air space parcel agreement was created. An Air Space Parcel Agreement (ASP) is an easement/contract filed on the Strata Corporation General/Common Index that defines how multiple property owners share use and liability of properties within the same air space.

Your ASP sets out use of parking, shared cost formulas for joint areas and terms for shared liability. In your ASP the restaurant owner has no voting privileges or rights to attend your general meetings of the corporation or sections, even though some of your current general meetings indicate they were at the meetings, made motions and voted on matters.

It would be valuable for your strata corporation to speak with a lawyer to explain the formulas and obligations of the ASP to ensure the fees and allocations of costs and use are being properly administered. Go to [www.choa.bc.ca](http://www.choa.bc.ca) and type in the search “Understanding Air Space Parcel Agreements” for an extensive guide on the subject.

Sincerely,

Tony Gioventu, Executive Director  
Condominium Home Owners' Association (CHOA)  
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