

Condo Smarts February 15 – 20, 2021

Tenants Altering a Strata Lot

Dear Tony: I own a townhouse unit in Surrey that I have been renting out for the past 15 years with a reliable tenant. I conducted routine inspections, and all seemed well until the tenant gave me notice 2 months ago. I did a final inspection to the unit and discovered the tenant had installed walls in the basement creating several rooms that do not meet code. Strangely enough the strata council had given the tenant permission to make the alterations. The removal of the walls and finishing is not a significant expense, but it raises an issue with our strata council and property manager. Is a tenant eligible to make improvements to a strata lot without the consent of the owner? The property manager told us this is common, but it seems unfair that a tenant can alter a strata lot without the consent of the owner? Danny R.

Dear Danny: Altering a strata lot or common property is a condition that is regulated under the *Standard Bylaws of the Strata Property Act* and any bylaw amendments properly adopted by your strata corporation. The *Standard Bylaws* and almost every other set of bylaw amendments I have seen, including yours, requires the written application by an owner of a strata lot for permission for alterations and the written approval of the strata corporation. There is no provision in the bylaws for a tenant to make an application as the owner has the interest in the strata lot and the strata council did not comply with the requirements of the bylaws to approve the request from the owner. I often see these types of errors occur simply because strata council members do not each have a set of the strata corporation bylaws and the bylaws are not reviewed at a council meeting prior to any decisions being made. Like any owner or tenants, strata councils have the same duty to comply with the provisions of the bylaws.

A variable that is often not acknowledged by strata councils and managers is the impact of the bylaws on non-residential/commercial strata lots. Owners who lease their units may have entered lease hold contracts that permit alterations or lease hold improvements by the tenants. This may have also granted the tenant the right to apply to the strata corporation for permission to alter the strata lot; however, the owner of the strata lot will always be liable for the actions and consequences of their tenants. The best practice whenever there is an application to alter a strata lot is first confirm the person you are dealing with is a registered owner. Family members are often assumed to be owners without verifying the title of the property. When you receive an application for an alteration that is from a tenant, whether residential or non-residential, confirm with the owner this application is endorsed or approved by the owner, and the owner has consented to the application. Copy all communications regarding an application for an alteration to the applicant and the owner of the strata lot. Require that any alteration agreements or conditions must be agreed to in writing by the owner, not the tenant. Follow your bylaws. If the bylaw requires an owner to make the application, insist on written confirmation by the owner and that they will be responsible for any cost relating to any part or condition of the alteration.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the

many issues affecting BC's strata community. For more information visit our website at:
<https://www.choa.bc.ca/seminars/>