

Condo Smarts

Headline: Buying a home – What's the deal with parking?
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Dear Condo Smarts: We're spending the month of June in Victoria, and we have been negotiating a potential deal with an owner in Esquimalt to buy their property. So far, so good. But we have come up against a road block that no one seems to be able to solve. We plan on using the condo for an investment for the next five years until my husband retires, and then move to Victoria. There are no rental bylaws, so that part is easy, but there appears to be a shortage of parking and some disputes over who has what rights to use different parking. If you count the number of parking spaces, there is clearly enough parking for two spaces for each unit, including the outside lot, but for some reason several people have more than two spaces, and that has put the building into a bit of controversy. Is there any way we can find out who is actually allocated the different parking spaces? The strata doesn't seem to have any records but a number of owners, including the seller we are talking to, all claim to have at least three assigned parking spaces. We cannot find anything in the bylaws or minutes for the last five years. This seems bizarre that the strata corporation doesn't have any responsibility in allocating the use of parking spaces. Mrs GH Hillier, Regina

Dear Mrs. Hillier: The section of the Strata Property Act that lists the information and records strata corporations have to maintain, actually includes parking stall numbers to a strata lot, if there is any assigned parking. So there is actually a reference to parking in the Act. The first step though, is to look at the registered strata plan, and the registered common index for the strata, which is filed in the Land Title Registry. If the parking was designated as limited common property, or part of the strata lot, or a separate strata lot connected to the condo, then it would be somehow indicated in the plans and filings. Many parking plans are often common property, which

means the parking is allocated by the strata corporation through the bylaws, rules, or the administration of council. There may also be some types of "licenses or lease agreements" set up by the developers to protect the common property parking spaces that the buyers were allocated as the first purchasers. Buyers should consult with their lawyer to determine if they are valid, transferable or registered, but in any case, if they did exist, the current owner could be required to provide some level of documentation to verify their parking allocations. For strata plans filed since July 1 2000, developers were required to provide parking stall numbers to the strata corporation if they were allocated to strata lots in the form of a lease, agreement or assignment. Prior to July 1, 2000, the requirements for parking allocation were not as clear, and at this time access to those records or documents may be sketchy at best. Strata corporations can easily resolve their parking woes by creating a published parking plan. The best solution is council taking an inventory of the parking, and survey the owners with respects to their current use of parking spaces, and requesting that owners provide credible documentation that indicates their assignments, if any. If owners did have valid assignments of parking created by the owner developer, it is important to document those allocations. Strata councils can only allocate the short-term exclusive use of common property for a period of one year, and that permission may be revoked by the strata corporation giving the owner or tenant reasonable notice of the cancellation. Just because someone claims they have five parking spaces, does not necessarily make it true. The reasonable and fair allocation of use of common property is the role of strata council, and a published parking plan can bring much welcomed harmony to a strata community.

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