

Condo Smarts

Headline: Memorial gardens on common property

Topic: Buying & Selling, Civil Resolution Tribunal

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Written by: Tony Gioventu

Dear Tony: Our strata is under taking a major renovation to our parking garage. The landscaping over the garage has been allowed to grow out of control for over 25 years and we now have serious leaking and some problems with the structure. We have run into a bit of a snag though. When the landscaping company came on site to salvage as many shrubs and trees as possible, a group of owners intervened and advised that the area being removed first was our memorial garden. Now I have lived there for 15 years and have never heard the words "memorial garden". As a result we stopped work and canvassed owners about the garden to discover that owners have been placing the cremated remains of pets and family members in this secluded area for quite some time. One owner has had his lawyer write us a letter advising that we cannot disturb the area, and another owner has threatened to disrupt any work being done on the property. We have no choice, we must clear this area to repair the highest damaged areas.

Sharon W.

Dear Sharon: Your issue is similar to a problem in 2013 when a high rise community discovered a roof top planter had been used as a memorial garden. The disposition of human remains in British Columbia is regulated under the Cremation, Interment and Funeral Services Act. We are not permitted to dispose of cremated human remains on public property, and on private property we require the consent of the property owner. As a strata corporation, the property owner is the strata corporation, which at the very least would require the consent of the owners at a general meeting. There is no law that prohibits the strata from removing the soil and plants for the construction, however there are a number of sensitive cultural issues and the dignity of removing interred remains. Perhaps a compromise could be the sensitive removal and relocation of the soil

and plants or the restoration back to the site once construction is complete. Ultimately the strata corporation will have to proceed with the construction.

There are several strata corporations across the province, who have designated landscape areas as memorial gardens for past residents and their pets; however, they have also obtained the consent of their owners to permit the interment of the cremated remains and the specific location of placement, either scattered or in appropriate containers.

BC is home to people of many cultures and faiths. It is important to respect their wishes and practices as well as the requests of others. The interment of the deceased is not the same for every culture. To avoid offending any party, violating any traditions, or creating the potential for a claim against the strata corporation, your council should seek legal advice before permitting remains to be interred on the common property. Memorial sites often become a pilgrimage for the current generations. Before anyone inter remains on a site, consider the permanence of the location.