

Condo Smarts

Headline: Commissioning a building system
Topic: Air Space Parcel Agreements
Publication / Date: The Province, Feb 9, 2017
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Dear Tony: We purchased into a new strata in 2015 that is part of several properties with Air Space Parcel Agreements and I have become actively involved as our strata treasurer. It has been very confusing to try and figure out how costs between the parties are calculated, how they are paid and how a variety of liabilities are shared. We get the impression no one really knows how to apply the cost sharing formulas and there is a lot of guess work on the go. To try and sort out our electrical we decided to hire a consultant to do a building audit and discovered that even with a complete shutdown there was still electrical demand on our system from other parts of the complex and certain sections of our property continued to have electrical service, although no one could identify the source. Clearly the creation of Air Parcels and the design of the buildings during construction are the source of inconsistencies. We believe we have solved the basic issues, but how do we solve conflicts under the *Strata Property Act* if we cannot agree to a solution with the other Air Parcels?

Wendy C.

Dear Wendy: When any new property is started, one of the first efforts to protect the interest of the property owners is a building commissioning. There is no formal requirement under the *Strata Property Act* that relates to operations, or under the *Homeowner Protection Act* that relates to warranty requirements; however, the only way a property owner like a strata will understand how their buildings operate, how they pay for costs, and whether their building is operating the way it was intended is to enact some level of commissioning. The building commissioning process is most critical for complex energy systems, and multiple properties sharing joint assets and facilities and Air Space Parcel agreements. Air space parcels are basically separate properties that are stacked on top of and beside each other. They often share parking, storage, access,

services and joint use areas. Before you do anything, a copy of the complete air space parcel agreement needs to be published and available for all council members and the strata manager. In the commissioning process of a strata in an air space parcel relationship, all contracts and agreements for services and utilities should be identified and reviewed. The mechanical and operations of the buildings should be inspected and tested to determine they are operating correctly and efficiently. Shared costs and contracts established by Air Space Parcel agreements should be reviewed and the cost formulas and methods of payment confirmed. Contract agreements that establish how each of the properties share liability, costs, obligations for maintenance, repair and inspections, and who has the authority and responsibility to administer those areas of shared property are a critical part of the business relationships and essential in assisting the strata when you develop your annual budget.

Many strata owners believe the *Strata Property Act* applies to air space parcel agreements. The *Act* does not apply. The relationship is purely contractual as it defines a relationship between multiple property owners, some of which may be strata corporations or commercial property owners such as hotels and shopping malls. If your strata corporation has a conflict or problem with an air space parcel property I strongly recommend your strata seek legal advice on the contractual relationship and your obligations as a strata corporation.