Dear Tony: We live in a 26 unit townhouse complex in the tri cities. Unlike conventonal side by side townhouses, we have one of top of the other. 13 enter their units from the lower road to a garage, and 13 enter through the upper road into a garage. One owner on the lower level has requested permission for a makeover of their unit that would include the removal of the interior walls creating a large open concept area. They claim it would have no impact on any other strata lot. The neighbours on both sides and above have opposed the request citing the changes in the structure could significantly impact their units. The owner has threatened court action if we don’t grant her permission as our bylaws say we cannot unreasonably with hold our approval. What does the term unreasonable mean? There is nothing in our bylaws or the Act that provides a definition and council is concerned that whatever decision we make we will be exposed to a possible court action from the neighbours or the owner requesting the alterations.

JR Winston

Dear JR: The Schedule of Standard Bylaws of the Strata Property Act require an owner to obtain the written approval of the strata before they alter a strata lot that involves any of the following:

- the structure of the building,
- the exterior of the building,
- chimneys,
- stairs,
- balconies or other things attached to the exterior of the building,
- doors, windows or skylights on the exterior of the building or front onto common property,
- fences, railings or similar structures that enclose a patio, balcony or yard,
- common property located within the boundaries of a strata lot, and most important
- those parts of a strata lot which the strata must insure under section 149 of the Act.

The parts of the strata lot the strata must insure includes all of the original fixtures installed by the owner developer such as the original flooring, kitchen and bathroom cabinetry and plumbing fixtures. What often seems like a simple alteration can easily turn into a nightmare if the strata do not enforce their bylaws and impose reasonable conditions on alterations. The bylaw says, “as a condition of its approval”.

Before granting approval, the strata may require independent engineering reports on the proposed alterations, a detailed report of the proposed construction and any alterations, and any other conditions such as environmental abatement in the event any asbestos is discovered. The strata corporation may also require the owner pay for any of the costs associated with the request, including any professional consulting costs or the cost of any legal agreements, building permits, or costs associated with the construction, demolition and disposal, as a condition of granting permission. A good question to test whether the alteration is unreasonable is whether it will have a negative impact on other strata lots or an alteration that may significantly change the use or appearance of common property or a common asset, which may require a special general meeting and a 3/4 vote of the owners for approval. For more information go to www.choa.bc.ca and search “alteration agreement” guide 200-001.

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA, the author and related entities will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person. The contents of this publication may not be reproduced, blogged, or distributed in any fashion without the explicit prior consent of the writer.