Alterations

There are 2 types of alterations in the Standard Bylaws of the Strata Property Act.

1. Altering a strata lot
2. Altering common (including LCP)

Alterations – Strata Lot

Standard Bylaw 5:

a. structure
b. exterior
c. chimneys, stairs, balconies etc. attached to the exterior
d. doors, windows or skylights on the exterior of the building, or that front on common property
e. fences, railings or similar structures that enclose a patio, balcony or yard
f. common property located within the boundaries of a strata lot
g. those things that the strata corporation must insure under section 149 of the Act

Alterations: Kitchen Reno

Bob and Jane make an application to renovate their kitchen, changing the location of the sink and dishwasher from their original position on the wall to an island and removing a wall.

Does this alteration require permission?
What are the potential impacts to the structure of the strata lot?
What procedures would you follow?
What if they do the alteration without permission?

Privacy

- The information presented and discussed in the seminar is not intended as legal advice or an opinion on the merits or questions raised by a participant, and is only intended for educational purposes.
- Due to the nature of information protected under the Personal Information Protection Act, and the confidentiality of each participant and their strata corporation, answers to strata corporation specific questions cannot be given during the seminar.
- Participants are advised to seek legal counsel independently regarding the specific nature of a bylaw, bylaw enforcement, interpretation of legislation, or matters relating to contractual relationships.
- Participants are requested to respect the privacy of those persons attending and participating in the seminars.
Alterations: Kitchen Reno

Bob and Jane make an application to renovate their kitchen, changing the location of the sink and dishwasher from their original position on the wall to an island.

What is required?
- Plans
- Building permits
- Insurance
- Consideration of the building system as it relates to other strata lots
- Construction periods
- Noise levels and soundproofing

Alterations: Skylights

Jill submits a request to install a skylight in their townhouse unit.

What is being altered?
Is an alteration application required?
What are the potential implications?

Alterations: Fireplace

John has removed his gas fireplace and wants to enclose the venting and chimneys. What are the steps he is required to follow?

Alterations: Patio Doors

Henry submits a request to remove the sliding glass patio doors and install a French double door.

What is being altered?
Common property/The Strata Lot?

Alterations: Fence Removal

Jan makes an application to remove her back boundary fence and extend the back yard area by 3 metres.

What is considered:
- Alteration to common property
- Exclusive use of common property
- Future cost of M&R
- Fair allocation of common property

Alterations

Regarding Jan’s alteration to the fence, what documents will council require before they can respond?

Copy of the application detailing the change
Bylaws of the Strata Corporation
Copy of the registered strata plan
Any filed amendments to the common property
Historic information that may apply to the extension
Plumbing, Electrical, HVAC

Standard Bylaw 5 – An owner must obtain the written approval of the strata corporation before making an alteration to a strata lot that involves any of the following:

f) common property located within the boundaries of a strata lot

What could constitute common property located within a strata lot?

Pipes, wires, ducts and HVAC for multiple use

Alterations: Flooring

Paul makes an application to remove the carpeting from his strata lot and install hard wood flooring.

What is being altered?
What are the construction considerations?
Can the strata prohibit the alteration?
What if the alteration is permitted and the result is a serious noise complaint problem from the neighbours?
Does the council have the right to deny the request?

Alterations

Standard Bylaw 5

(2) The strata corporation must not unreasonably withhold its approval under subsection (1) above, but may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the strata alteration.

What is the implication of part 2?
Can the strata corporation prohibit a strata lot alteration?
What limits may they impose on the applicant?
Define “unreasonably withhold”.

Alterations

Standard Bylaw 5

(3) This section does not apply to a strata lot in a bare land strata plan.

- Exercise caution for bare land and look for:
  - bylaws that relate to strata lot alterations
  - building schemes that limit construction or use
  - alterations that affect other strata lots
  - alterations that impact the strata corporation responsibilities

Alterations: Common Property

Standard Bylaw 6

(1) An owner must obtain the written approval of the strata corporation before making an alteration to common property, including limited common property, or common assets.

(2) The strata corporation may require as a condition of its approval that the owner agree in writing, to take responsibility for any expenses relating to the alteration.

Does this mean the strata corporation must grant permission to any request regarding an alteration to common property?
Alteration: Common Property

Standard Bylaw 6

Examples of alterations to common property

- Balcony enclosure
- Skylights
- Doors and windows
- Installation of Satellite Dishes
- Installation of structures, sheds, ponds, pools
- Fence alterations or removals
- Painting the exterior
- Change the exterior doors
- Landscaping changes or planting

How do we track Alterations?

What is the Impact of Form B Information Certificate for alterations?

Strata corporations must include any agreements regarding a strata lot which an owner has agreed to maintain and repair in a strata lot or limited common property, or has agreed to pay for maintenance, repairs or costs related to an alteration to common property.

What happens if a strata corporation does not disclose an alteration to common property on a Form B?

If strata corporations fail to disclose alteration information for common property or limited common property, the strata corporation is unlikely to be able to enforce alterations conditions on subsequent owners.

Maintenance and repair obligations and costs may be addressed through a CRT dispute.

How does a strata corporation collect money owing for maintenance, repairs as a result of an alteration agreement?

In the same manner as a bylaw violation, strata corporations may collect money owing in accordance with alteration agreements and disclosed agreements through a declaration on Form F Payment Certificate request, and may use the Civil Resolution Tribunal to obtain an order for payment.

Fairness in administration and collection of user agreements is subject to the strata corporation applying the same conditions to all strata lots.

Maintain separate files for each strata lot “suite files” to ensure all agreements are recorded and disclosed.

Owners may challenge the application or enforceability of an alteration agreement or its enforcement if the strata corporation is not applying the same conditions and requirements to all strata lots.
Fairness?

Example: The strata corporation has approved the replacement of sliding doors on balconies to French doors. The area is common property and the owners have agreed to the cost, and future costs of maintenance and repair.

Alterations agreements have been signed by the owners who have applied.

Several council members have also installed the doors but have not been required to sign alteration agreements.

How will the strata enforce the agreement against one party when other parties are exempt?

Alteration: Common Property

Betsy Lou has made an application to the strata council for permission to have her balcony enclosed in glass.

1. Is the alteration a significant change in the use or appearance of common or limited common property?

Who determines whether a change is significant?

How does the strata council determine if they have the authority to grant an alteration to use, appearance or allocation of common property?

When does a strata council take the matter to the owners for a ¾ vote?

Alteration: Common Property

Betsy Lou has made an application to the strata council for permission to have her balcony enclosed in glass.

2. Identify the scope of work.

What is being changed?

What is the location? (Betsy lives on the 7th floor)!

Will this have any impact on the function of the building, appearance, code requirements, safety?

If the alteration fails, what will be affected?

If the enclosure has to be removed, who will pay?

Alteration: Common Property

Betsy Lou has made an application to the strata council for permission to have her balcony enclosed in glass.

3. Who is performing the work?

Is the owner acting as the general contractor?

Who is responsible for the site safety and general liability?

Is the contractor licensed and insured?

Has the strata verified the status of the licensing and insurance?

What happens if there is an injury?

Alteration: Common Property

Betsy Lou has made an application to the strata council for permission to have her balcony enclosed in glass.

4. Are there engineering/warranty issues?

Do the proposed alterations require professional engineering services?

Changes to the building exterior may have a significant impact on exterior finishing’s and water management.

Buildings that have had envelope upgrades under the Homeowner Protection Act or are under 5 years will have a building envelope warranty. Before any alterations are permitted, have you confirmed the scope of work and technical requirements with the warranty provider?
5. Are building permits required? What may trigger a permit and inspection process?

Changes in structure
Enclosure and changes that affect egress in the event of a fire or fire safety regulations
Changes that are regulated under the BC Safety Authority
Changes to mechanical services
Substantial changes in use (residential to commercial)

5. How do you know if a permit is required?

Before alterations commence and approval is granted, contact the licensing and permit authorities.
Verification of requirements may be a condition of an alteration agreement.

6. Are there any environmental conditions?

When you confirm in writing with the applicant the scope of work, confirm they are also responsible for any costs related to environmental abatement. For example: This could include any asbestos related products, lead paints, mould, and construction that could release radon gas or compromise vapour barriers.

Note: If an owner is undertaking construction that results in asbestos abatement and is not treated properly, WorkSafe will issue a work order for the protocol and may fine. Include the costs of any penalties to be paid by the applicant for WorkSafe violations as part of the alteration agreement.

6. Is the complete scope of work detailed in writing?

Scope of the construction
Schedule of construction
Waste Management and Site Safety
Environmental conditions and liability
Common area protection and restoration
Insurance and liability agreements
Details regarding access, parking

8. Have written agreements been finalized?

Does the agreement require legal review?
Have you agreed to who is paying for the cost?
How will the agreement be maintained?
What happens if they breach the agreement?
Have you considered what will happen if the alteration fails?

“in 2003, a window panel from an enclosure collapsed onto a lower balcony due to a failure in the design. There were no injuries; however, $15,000 damage. No agreements.”

9. Has the decision of council been minuted?

An application for an alteration to a strata lot, common or limited common property, an asset of the strata or to a fixture the strata must insure under section 149 of the Act is a request relating to the bylaws. The request will require decisions of the council, instructions and negotiations which occur at council meetings and are required to be recorded in the bylaws of the strata corporation. An alteration that requires the consent of the strata is NOT a secret. The strata corporation may be challenged on how they grant permission, a recorded history of applications, enforcement and decisions will provide the strata with valuable records.
Thank you

Condominium Home Owners’ Association
1.877.353.2462
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