

Parking designated by owner developer as limited common property

258 (1) *An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate parking stalls as limited common property for the exclusive use of owners of strata lots in the strata plan.*

(2) *In designating parking stalls under subsection (1), the owner developer acts as the council and must*

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(3) *An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate a maximum of 2 extra parking stalls as limited common property for the exclusive use of the owners of each strata lot in the strata plan.*

(4) *In this section, "extra parking stalls" means any parking stalls, on land shown on the strata plan as set aside for parking, that are in addition to the total number of parking stalls calculated by adding*

(a) one stall per strata lot, or any greater number of stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment, plus

(b) one stall per 10 strata lots for visitor parking or any greater number of visitor parking stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment.

(5) *In designating extra parking stalls under subsection (3), the owner developer is not required to act with a view to the best interests of the strata corporation, but must act honestly and in good faith and exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.*

(6) *A designation of parking stalls under subsection (1) or (3) does not require approval by a resolution at an annual or special general meeting.*

(7) *An application to amend the strata plan under this section must be made to the registrar accompanied by a reference or explanatory plan, whichever the registrar requires, that*

(a) shows the amendment, and

(b) is in a form required under the Land Title Act and the regulations made under that Act for a reference or explanatory plan.

Here are some of the most common questions that we receive regarding parking:

- 1) When I buy my strata lot do I own my parking? It depends on the designation of the strata parking, common parking is owned by the corporation, not individual owners. Limited common property is for the exclusive use of an owner, but still the ownership of the strata corporation and a strata lot is for the exclusive use of an owner and part of their strata lot ownership. Parking lease agreements may not be enforceable under the provisions of the Act. The Strata Corporation and buyers should seek a legal opinion on lease agreements for parking.
- 2) If I bought my parking when I purchased a new condo, can I sell it to the next purchaser? In most cases the parking is still part of the common property and an owner cannot sell or lease common property. If you have entered into a long term lease agreement for the parking, talk to your lawyer and the strata corporation before you consider transferring your purchased parking. If your parking is a separate strata lot, then you would sell it separately in the same manner as selling your condo.
- 3) Can the strata council change the parking spaces without the owners vote? It all depends on the bylaws and rules of your strata, the designations of the property, limitations on use of property, and any ratified parking plans that the corporation has adopted.
- 4) Can the council rent out parking not being used by owners? The bylaws and rules of the strata corporation delegate the control and use of the common property and common assets of the corporation. The Act and Regulations permit user fees for common property and common facilities, however the user fee must first either be a rule ratified by owners at a general meeting by majority vote or a bylaw ratified in accordance with section 128 of the Act.
- 5) How can we solve our parking disputes? The best advice we can offer our members is for strata corporations with large, complicated, undefined parking areas is to create a parking plan and provisions for parking that can form part of the bylaws and rules. If the plan is in place there are few disputes.

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