

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Condo Smarts

Headline: Bylaws define property use

Topic: Limited common property

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Written by: Tony Gioventu

Every strata building has different types of property, designated for different use. There is common property, such as parking areas, lawns, roof decks, lobbies and hallways; limited common property designated for the exclusive use of one or more owners; and the strata lot owned by each party. But what determines the boundaries and lines of these areas? The registered strata plan and any amendments filed in the Land Title Registry.

A South Vancouver owner returning from extended vacation recently discovered a picnic table and barbecue installed on the patio area outside his apartment. The strata insisted that this was common property and they had the right to alter the property for everyone's use and enjoyment. The owner disputed the interpretation and sought legal advice. A barbecue party that same night was the cause of a significant confrontation between the owner and the other strata members, and the police were called to intervene. Who was right?

Strata Law: The Strata Act defines limited common property as common property for the exclusive use of the designated owners. In this case the strata plan shows the entire patio area, including two trees and the planters as part of the limited common property for the exclusive use of the owner. To significantly alter the common

property requires a three-quarters vote of the strata at a general meeting. To remove the designation of the limited common on the strata plan would require a unanimous vote of all owners in favour at a general meeting.

Tips: Use of limited common property is frequently contentious. Both the strata and the owners may confuse who repairs and maintains what parts, who can use them and how often. A bylaw should clearly sets out the responsibilities and restrictions of use, maintenance and repairs. With a letter from the owner's lawyer, the strata has agreed to restore the area to its original condition.

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