

Condominium Home Owners' Association

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Bulletin: 300-228

Condo Smarts

Headline: You need a lawyer

Topic: Selling_parking spaces and storage lockers

Publication date: May 20, 2007

Publication: The Province

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This is the third in a six-part series on buying and selling a condo

Dear Condo Smarts: What happens when what you buy is not what you get? I purchased a two-bedroom condo in False Creek, and with it came two parking spaces, two small storage lockers and a marina slip for my boat. All of these were itemized in the sales agreement drawn up by the seller. The strata council now informs me that the permit on my boat slip has expired and to renew it will cost me \$5,000 a year. The seller claims he bought the two parking spaces from the developer, and had a 99-year lease on the marina slip. Where do I go now?

-- Casey M.

Dear Casey: You are going to need a lawyer review these lease agreements and your agreement for sale. Many property lease agreements were never properly filed or negotiated in the first place, or do not comply with the Strata Property Act, so you may have some nasty surprises. The first thing you need to determine is the designation of the parking spaces, storage locker and marina slip. Are they common property, limited common property or part of the strata lot? If they are filed as common property of the strata corporation they remain as common property of the strata corporation unless the designation is changed in accordance with the Strata Property Act.

Next, you should determine whether the strata has any bylaws and/or rules that

pertain to the use of the spaces, lockers and slip. The bylaws may have a significant effect over the use of the property, including rentals and leasing.

If the strata corporation has changed common property to limited common property, or has sold off a portion of the common property and made that portion part of the strata lot in question, the transaction will be indicated with the Land Title Registry on your title and on the strata plan's records. A strata corporation, or developer acting as the corporation, may create leases for use of property, such as the use of the parking, lockers and the marina slip.

Just because a seller discloses they have a specific parking space, a defined storage locker, an allocated marina slip or designated heli-pad, doesn't make it true. Before anyone signs an agreement for sale, here is a checklist to follow: 1) Always read the registered bylaws of the strata corporation. 2) Verify in writing with the strata corporation which parking, storage or marina spaces go with the property. 3) Obtain a copy of the registered strata plan and any filed amendments and review your share of the costs and use of space. 4) Closely read the minutes of the corporation. Both the minutes of council meetings and general meetings tell an interesting story. 5) Obtain a Form B Information Certificate and read the strata rules for common property. If you have any doubts or questions, put them in writing and get the agents to respond. Don't wait till the day of sale to talk to your lawyer. By then, it's usually too late.

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