

Condominium Home Owners' Association

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Bulletin: 300-250

Condo Smarts

Headline: Deck unlikely to remain

Topic: Buying advise and decks

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Dear Condo Smarts: My wife and I bought a top floor apartment unit in Vancouver about a year ago. There was a very large roof-top deck which we considered to be a significant asset. Unfortunately we never contemplated any type of building inspections, and we're now facing a significant cost for the replacement of the roof.

In the process of the roof tendering, the contractor has advised us that it is unlikely that our deck conforms to building code or life safety requirements.

The strata council has since determined that there was never a building permit issued for the deck, which was increased from the original 100 square feet to almost 800 square feet. In order for us to keep the deck, we are going to be required to obtain a building permit, the deck designs must be brought up to code, and the strata council must consent to the extension.

We are prepared to pay the additional cost, but the council has refused to consent because of a number of noise complaints from owners. Until the roof repairs were required, no one was aware of the size of the deck expansion.

Is there any way the strata corporation is obligated to provide consent? If we don't get the extension, the value of our property will drop considerably.

-- *Dave and Kendra, Vancouver*

Dear Dave and Kendra: There are many non-confirming alterations in strata properties around the province.

Roof-top decks over living spaces and garages are common, but they are also a common contributor to building damage and injuries resulting from improper use.

Decks over roofing areas require special detailing in how they are supported and mounted on the roof to prevent damage, and the structural limitations of the roof must also be contemplated.

The area of the roof that you are using shows on your strata plan as common property. Without the written consent of the corporation, a valid building permit and possibly a 3/4 resolution of the owners permitting a significant change in the use or appearance of common property, it is unlikely you will be able to restore the deck.

Think of it this way. If all the owners are paying for the replacement of the roof, why should only one owner have the benefit, unless there is some compensation for the owners? Your unit shows a 10 x 10 area of Limited Common Property with a deck that the strata corporation will be required to restore when the roof is complete. A word of caution, though, for anyone buying a strata property with decks and balconies. Check with the strata corporation and the strata plan to verify that the deck area is permitted. Also check the bylaws. Who is going to have to pay for maintenance and repairs?

As a buyer, you could be on the hook for costly future repairs. Strata corporations can also require the applicant of the strata lot to be responsible for future costs.

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