

Condominium Home Owners' Association

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Bulletin: 300-295

Condo Smarts

Headline: Handicapped Parking Headaches

Topic: Parking

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Dear Condo Smarts: I recently bought a condo from a man who was the first purchaser from the developer in 2004. With the unit I bought 2 parking spaces, 1 for handicapped use and 1 next to it. They were both within 5 metres of the elevator and this was attractive for me for personal security. I received a letter from the strata council last week advising me that I would be losing my handicapped parking space because an owner recently wheel chair bound requires it for access to the building. I understand the person needs the access and there is no other specific space allocated for such use, but how can the strata corporation change the ownership of my parking spaces? The documents clearly show that the 2 parking spaces were included with my purchase.
Eleanor Fitzgerald, Richmond

Dear Eleanor: This is a complicated problem and comes with an even more complicated answer. Depending on the designation of your building parking spaces, common property, limited common or strata lot determines a number of factors. If they are common property then the corporation administers them through the rules and bylaws. If they were designated as limited common property by the developer, the use can generally only be changed by a unanimous vote of the strata corporation, and if they are part of the strata lot, the designation cannot be changed without a unanimous vote, consent of the strata lot owner and amendment to the strata plan.

the designated control over the parking spaces. But here's the complication. The developer may have through a lease agreement through presales or disclosure assigned the use of the parking spaces to specific strata lots. If that is the case, what the buyer bought was the entitlement to use parking and perhaps use of a specific parking space, but, they do not legally own the spot. Not all lease agreements are created within the requirements of the legislation and may not be binding. You will need legal advice on whether the sales agreement actually conveyed to you property that you are entitled to, or not, and whether the lease agreements were created properly and are enforceable.

Most owners don't own the spaces, yet on re-sales they frequently include the space as part of the strata lot. Even more complicated is some of the leases or assignments are only buyer specific and not registered to the strata lot and may expire once a person conveys their lot. Each agreement and set of conditions has to be reviewed separately to determine the types of assignments, allocations and use and conveyance of agreements, even their validity. From a Human Rights' perspective, your strata council probably have no choice in attempting to accommodate this person who needs the handicapped parking. Schedule a meeting with council and try to find common ground to meet your needs and the strata's obligations.

What is over riding is that the strata corporation, if the property is common, has

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