

Condominium Home Owners' Association

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Bulletin: 300-322

Condo Smarts

Headline: What is structural change to a strata lot?

Topic: Alterations

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Dear Condo Smarts: We live on the upper part of Vancouver Island, where there seem to be few controls or penalties for people who break the law. Our townhouse was informed by a new owner about a leak in their living room. The council inspected the suite to discover that the previous owner back in January had removed the gas fireplace and installed a wood burning stove and modified the existing windows. Water was clearly getting in around these areas. We have hired a contractor who is returning the construction back to the original, and we have instructed him to remove the wood burning stove. The new owner is furious because she intended to heat her unit with wood, not realizing she is still paying the common gas as part of her strata fees. Even the real estate agent knew about the changes and didn't say anything. When do owners have to seek written permission of council before they make changes to a strata lot? MJ, Campbell River

Dear MJ: Both the Standard Bylaws and your Strata Bylaw Amendments likely have all the direction you need to enforce these bylaws. If you look closely at the Standard Bylaws under alterations to a strata lot it says the owner needs written approval to alter a strata lot for the structure, the exterior, exterior up to and including those parts of the strata lot which the strata corporation must insure under the Act. Here's the big surprise for all strata owners. Fixtures and assets are items that must be insured, and that would include the original gas fireplace, and the original carpets, flooring, plumbing and electrical, and cabinets. It might seem silly for the strata to

have to approve an owner replacing their carpets, but don't forget, if you upgrade or make betterments the strata is no longer insuring those improvements. When an owner makes alterations that are not approved, and in this case it would include the exterior of the building, the strata may do whatever is reasonably necessary to remedy the contravention. This could mean restoring the damages back to the original at the owners' cost. The new owner needs to contact their lawyer once she is aware of the costs, and consider a claim against the previous owner and the agent, who did not advise the purchaser of the unapproved alterations. There are also serious fire safety concerns and health concerns including ventilation about this conversion. Was the gas connection terminated properly? Were any permits obtained? Is the venting susceptible to fire and the correct rating for this use? The owner and the strata corporation also need to contact the local building inspector. An order may be issued by the local office to remove the installation, or a set of conditions may be issued for the requirement of upgrades and a permit, if the strata agrees to the alteration. Whenever a strata discovers such a significant risk, they also now have a material defect that they are obliged to disclose to their insurance provider. I've seen similar alterations where gas lines have been spliced to add a gas stove to a kitchen without permits or any consideration for safety. This alteration could affect the status of your insurance or your costs. If you are aware of the risk, do not disclose or remedy it, and there is a fire, your strata could be faced with little or no insurance coverage.

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