

Condo Smarts

Headline: Parking Assignments

Topic: Parking

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Dear Condo Smarts: Thank you for your column two weeks ago regarding the parking allocations for new buyers. We bought a unit in Surrey that had been pre-owned by two other parties prior, and were told by the agent that we had two designated parking spaces. When we moved in to our condo in December, the strata council informed us that there was only one parking space for each strata lot and additional parking cost \$50 per month. The previous owner advised that they were sold in the agreement from the first owner of the two parking spaces, which were passed along to us. We have reviewed the Land Title Registry and spoken to council further on the matter. Nothing is registered and there is no indication from the first council minutes or the first AGM that there were any parking spaces designated to anyone. The developer advised that they were no longer involved and it was the strata responsibility now. How is a buyer to really know if they have bought or are designated additional or specific parking spaces? Kelly & David Nixon

Dear Kelly & David: I wish your plight was isolated, but since the column came out, I have received over 200 emails and letters from subsequent owners with the same problem. Owner developers often enter into a lease agreement or license for the use of or allocation of the parking in a new development. If the agreements are not registered as a lease or limited common property assignment in the land title registry, then it is quite possible that no one will be aware of the rights of the subsequent owners when it comes to the parking allocations. Technically speaking, at the first AGM, the owner developer is obliged to provide to the strata corporation all of the related building documents, such as plans, warranties, contracts, rental disclosure statements, manuals, schematic

drawings, operating instructions, and service guides. They are also required to provide all of the information required under section 35 of the Act, and that includes all the records and documents the strata must maintain, but especially a list of owners, with their strata lot addresses, and parking stall numbers, if any are appointed or allocated. The collection of this information is a critical step in the first year of a strata corporation that is often overlooked. It is vital that in the first year of a strata corporation all of the records and documents are collected. The Strata Property Act underlines this importance by allowing for strata corporations to take financial action against the developer if the developer fails to provide the documents, and the strata has to expend money to obtain the required documents that were not provided. Strata corporations may seek legal counsel and professional services to recover these documents, and may then file a lien against an unsold strata lot owned by the developer and may even proceed as far as a court action for an order for sale of the strata lot to recover the costs. To establish how the parking was allocated may be extremely complicated and costly at this point. The first step is to find out if any first purchasers are still in the building and if they still have their purchase agreements. If they did enter into a parking lease or assignment, then those documents may provide some direction for the owners and strata council. In addition to the parking allocations, it would be prudent to have a legal review of the agreements to also confirm that they were properly conducted and are enforceable. Then the strata council can hopefully establish the proper parking allocations. It would not be a surprise to discover that more parking stalls were assigned than actually exist.

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